9 VAC 5 CHAPTER 140. REGULATION FOR EMISSIONS TRADING.

$\frac{\text{PART II.}}{\text{NO}_{\underline{x}} \text{ Annual Trading Program.}}$

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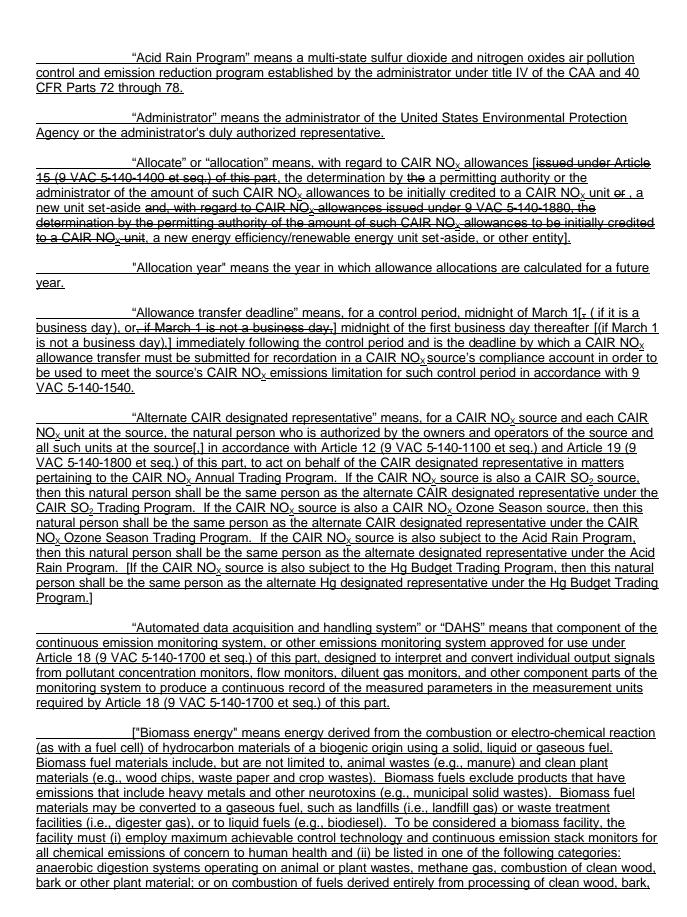
Article 11. CAIR NO_x Annual Trading Program General Provisions.

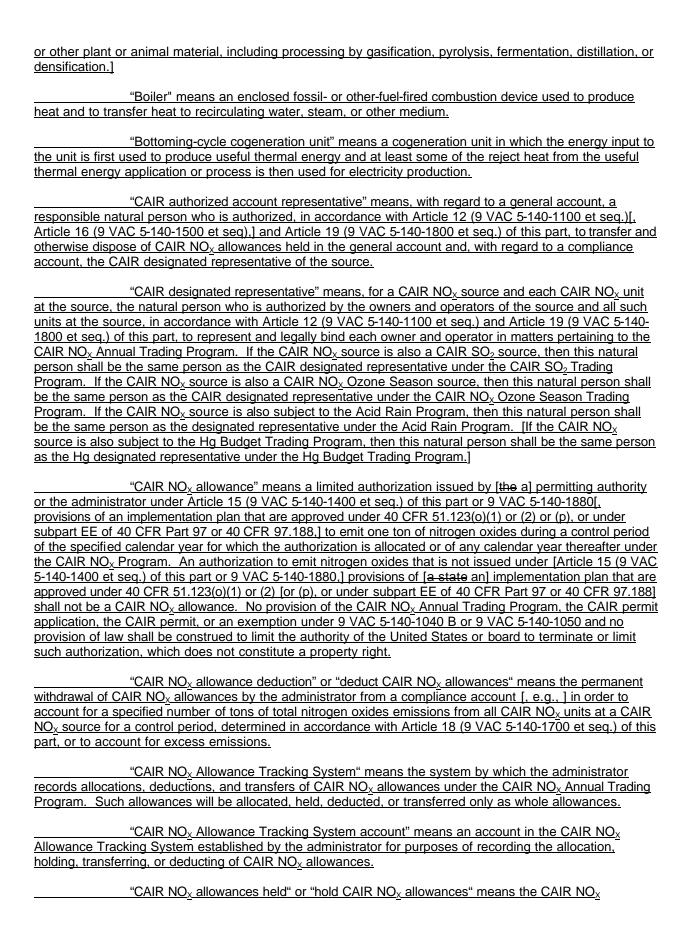
9 VAC 5-140-1010, Purpose,

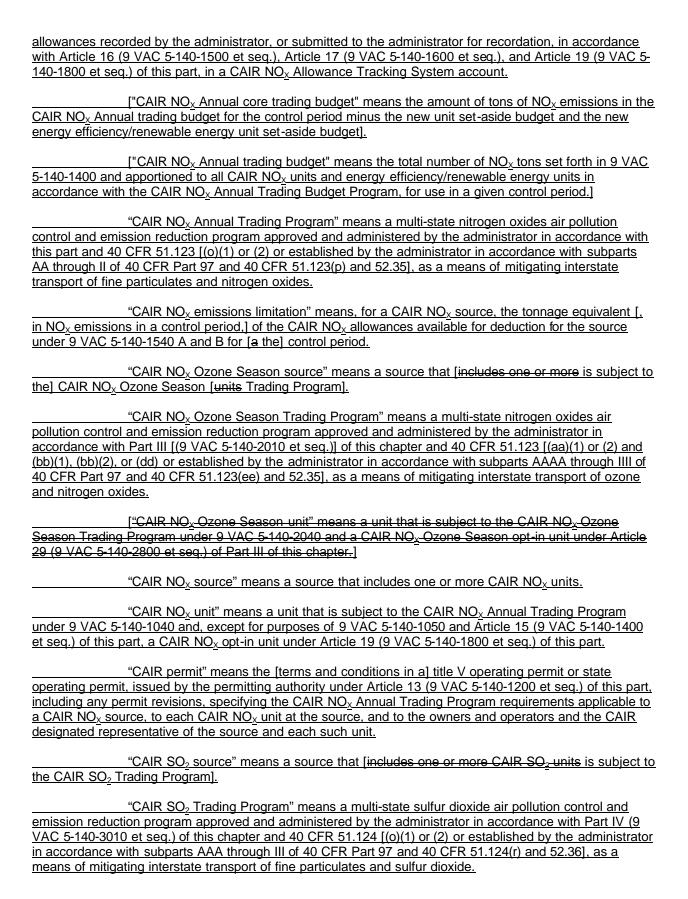
This part establishes general provisions and the designated representative, permitting, allowance, monitoring, and opt-in provisions for the State Clean Air Interstate Rule (CAIR) $NO_{\underline{x}}$ Annual Trading Program, under § 110 of the Clean Air Act (42 USC §7410) and 40 CFR 51.123, as a means of mitigating interstate transport of fine particulates and nitrogen oxides. The board authorizes the administrator to assist the board in implementing the CAIR $NO_{\underline{x}}$ Annual Trading Program by carrying out the functions set forth for the administrator in this part.

9 VAC 5-140-1020. Definitions.

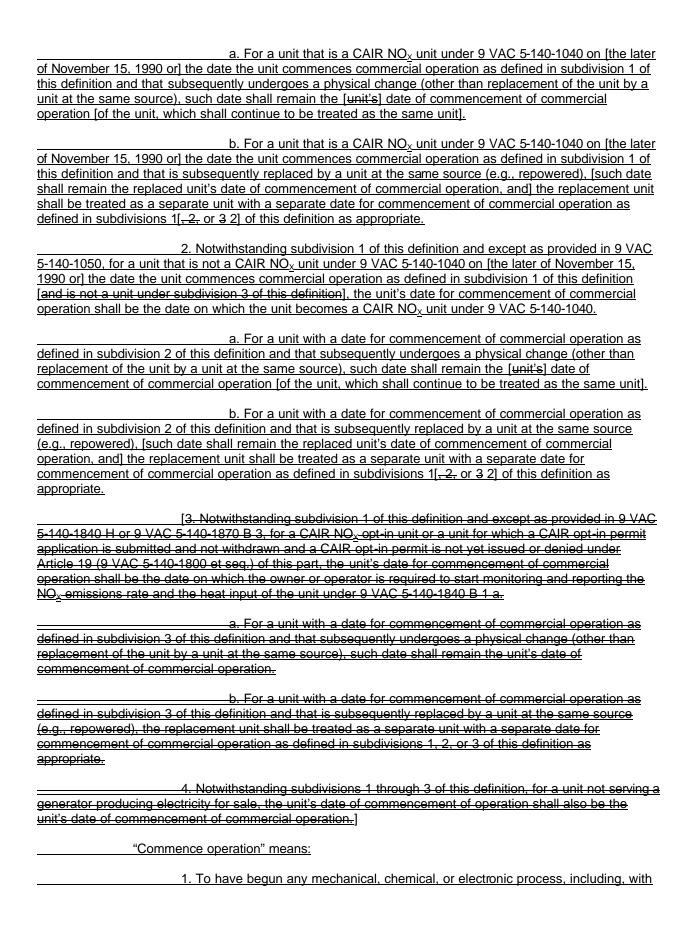
- A. As used in this part, all words or terms not defined here shall have the meaning given them in 9 VAC 5 Chapter 10 (9 VAC 5-10), unless otherwise required by context.
- B. For the purpose of this part and any related use, the words or terms shall have the meaning given them in this paragraph.
- "Account number" means the identification number given by the administrator to each CAIR $\underline{NO_x}$ Allowance Tracking System account.
- "Acid Rain emissions limitation" means a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program.



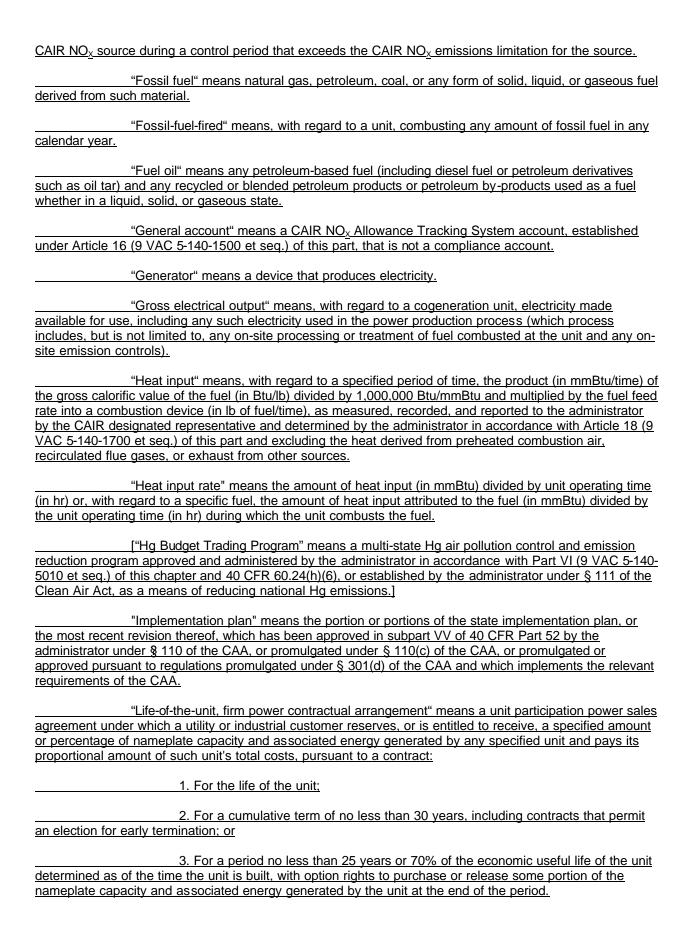


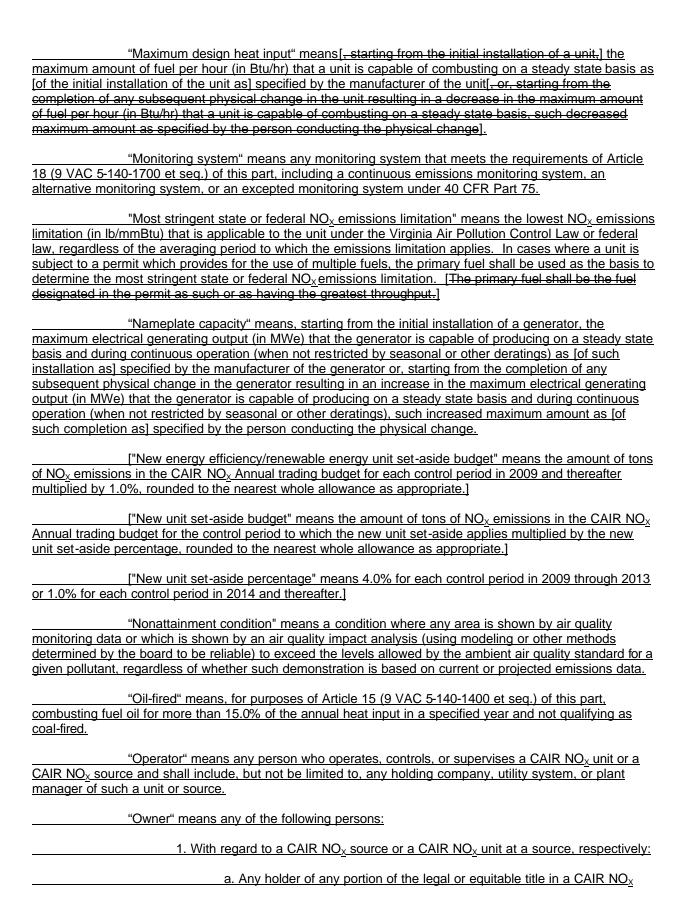


<u>"CAIR SO₂ unit" means a unit that is subject to the CAIR SO₂ Trading Program under 9</u>
VAC 5-140-3040 and a CAIR SO₂ opt-in unit under Article 39 (9 VAC 5-140-3800 et seq.) of Part IV of this
<u>chapter.</u>]
"Clean Air Act" or "CAA" means the Clean Air Act, 42 USC 7401, et seq.
"Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.
"Coal-derived fuel" means any fuel (whether in a solid, liquid, or gaseous state) produced by the mechanical, thermal, or chemical processing of coal.
"Coal-fired" means:
1. Except for purposes of Article 15 (9 VAC 5-140-1400 et seq.) of this part, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year; or
2. For purposes of Article 15 (9 VAC 5-140-1400 et seq.) of this part, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during a specified year.
"Cogeneration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine:
1. Having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and
2. Producing during the 12-month period starting on the date the unit first produces electricity and during any calendar year after [the calendar year in] which the unit first produces electricity –
a. For a topping-cycle cogeneration unit,
(1) Useful thermal energy not less than 5.0% of total energy output; and
(2) Useful power that, when added to one-half of useful thermal energy produced, is not less then 42.5% of total energy input, if useful thermal energy produced is 15% or more of total energy output, or not less than 45% of total energy input, if useful thermal energy produced is less than 15% of total energy output.
b. For a bottoming-cycle cogeneration unit, useful power not less than 45% of total energy input.
"Combustion turbine" means:
1. An enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and
2. If the enclosed device under subdivision 1 of this definition is combined cycle, any associated [duct burner,] heat recovery steam generator[,] and steam turbine.
"Commence commercial operation" means, with regard to a unit [serving a generator]:
1. To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in 9 VAC 5-140-1050 [and 9 VAC 5-140-1840 H].

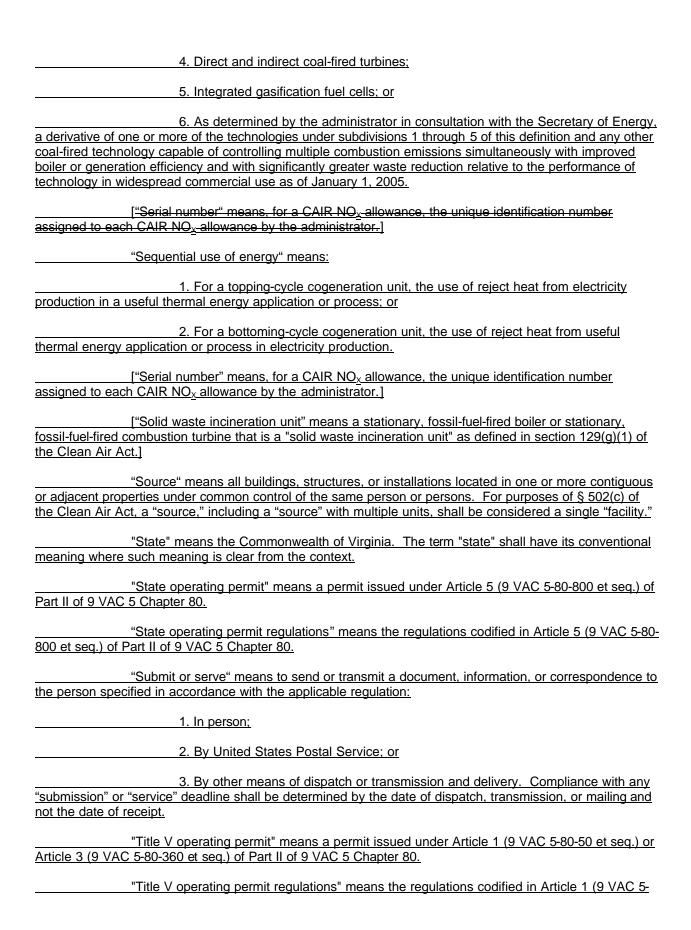


regard to a unit, start-up of a unit's combustion chamber, except as provided in 9 VAC 5-140-[1050 1840 H]. [a. 2.] For a unit that [is a CAIR NO_x unit under 9 VAC 5-140-1040 on the date the unit commences operation as defined in subdivision 1 of this definition and that subsequently] undergoes a physical change (other than replacement of the unit by a unit at the same source) [after the date the unit commences operation as defined in subdivision 1 of this definition], such date shall remain the [unit's] date of commencement of operation [of the unit, which shall continue to be treated as the same unit1. (b. 3.) For a unit that is [a CAIR NO_x unit under 9 VAC 5-140-1040 on the date the unit commences operation as defined in subdivision 1 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered) [after the date the unit commences operation as defined in subdivision 1 of this definition, such date shall remain the replaced unit's date of commencement of operation, and] the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in subdivisions 1, 2, or 3 of this definition as appropriate [,except as provided in 9 VAC 5-140-1840 H]. [2. Notwithstanding subdivision 1 of this definition and except as provided in 9 VAC 5-140-1050, for a unit that is not a CAIR NO_x unit under 9 VAC 5-140-1040 on the date the unit commences operation as defined in subdivision 1 of this definition and is not a unit under subdivision 3 of this definition, the unit's date for commencement of operation shall be the date on which the unit becomes a CAIR NO_x unit under 9 VAC 5-140-1040. a. For a unit with a date for commencement of operation as defined in subdivision 2 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the unit's date of commencement of operation. b. For a unit with a date for commencement of operation as defined in subdivision 2 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in subdivisions 1, 2, or 3 of this definition as appropriate. Notwithstanding subdivision 1 of this definition and except as provided in 9 VAC 5-140-1840 H or 9 VAC 5-140-1870 B 3, for a CAIR NO_x opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 19 (9 VAC 5-140-1800 et seq.) of this part, the unit's date for commencement of operation shall be the date on which the owner or operator is required to start monitoring and reporting the NO_x emissions rate and the heat input of the unit under 9 VAC 5-140-1840 B 1 a. a. For a unit with a date for commencement of operation as defined in subdivision 3 of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the unit's date of commencement of operation. b. For a unit with a date for commencement of operation as defined in subdivision 3 of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in subdivisions 1, 2, or 3 of this definition as appropriate. "Common stack" means a single flue through which emissions from 2 or more units are exhausted. "Compliance account" means a CAIR NO_X Allowance Tracking System account, established by the administrator for a CAIR NO_x source under Article 16 (9 VAC 5-140-1500 et seq.) or Article 19 (9 VAC 5-140-1800 et seq.) of this part, in which any CAIR NO_x allowance allocations for the CAIR NO_x units at the source are initially recorded and in which are held any CAIR NO_x allowances available for use for a control period in order to meet the source's CAIR NO_x emissions limitation in accordance with 9 VAC 5-140-1540. "Continuous emission monitoring system" or "CEMS" means the equipment required under Article 18 (9 VAC 5-140-1700 et seq.) of this part to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes (using an automated data acquisition and handling system (DAHS)), a permanent record of nitrogen oxides emissions, stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration (as applicable), in a manner consistent with 40 CFR Part 75. The following systems are the principal types of continuous emission monitoring systems required under Article 18 (9 VAC 5-140-1700 et seq.) of this part: 1. A flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh); 2. A nitrogen oxides concentration monitoring system, consisting of a NO_x pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of NO_x emissions, in parts per million (ppm); 3. A nitrogen oxides emission rate (or NO_x-diluent) monitoring system, consisting of a NO_x pollutant concentration monitor, a diluent gas (CO₂ or O₂) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO_x concentration, in parts per million (ppm), diluent gas concentration, in percent CO₂ or O₂; and NO_x emission rate, in pounds per million British thermal units (lb/mmBtu); 4. A moisture monitoring system, as defined in 40 CFR 75.11(b)(2) and providing a permanent, continuous record of the stack gas moisture content, in percent H₂O; 5. A carbon dioxide monitoring system, consisting of a CO₂ pollutant concentration monitor (or an oxygen monitor plus suitable mathematical equations from which the CO₂ concentration is derived) and an automated data acquisition and handling system and providing a permanent, continuous record of CO₂ emissions, in percent CO₂; and 6. An oxygen monitoring system, consisting of an O₂ concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O₂, in percent O₂. "Control period" means the period beginning January 1 of a calendar year, except as provided in 9 VAC 5-140-1060 C 2, and ending on December 31 of the same year, inclusive. ["EERE proponent" means any person who owns, leases, operates or controls an energy efficiency unit or a renewable energy unit, or an EERE representative.] ["EERE representative" means a party that aggregates one or more energy efficiency units or renewable energy units. An EERE representative may include, without limitation, a common owner of projects, an energy service company, an emission trading broker or a state or municipal entity.] "Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the administrator by the CAIR designated representative and as determined by the administrator in accordance with Article 18 (9 VAC 5-140-1700 et seg.) of this part. ["Energy efficiency unit" means an end-use energy efficiency project implemented after January 1, 2006 that reduces electricity consumption at a building or facility located in Virginia according to an energy efficiency verification protocol acceptable to the permitting authority. Projects resulting in energy savings at a CAIR NO_x unit are not encompassed within this definition.] "Excess emissions" means any ton of nitrogen oxides emitted by the CAIR NO_x units at a



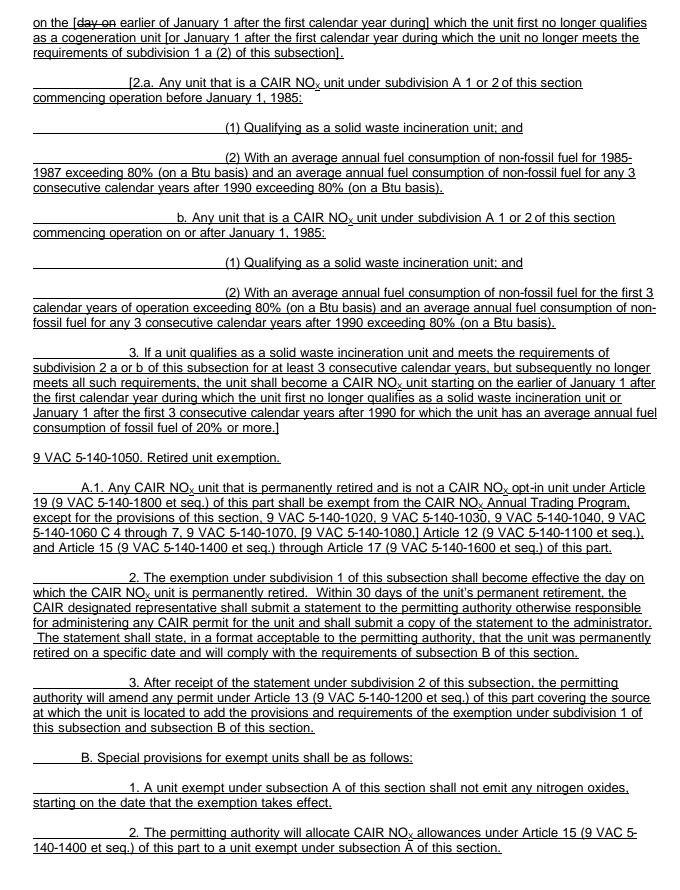


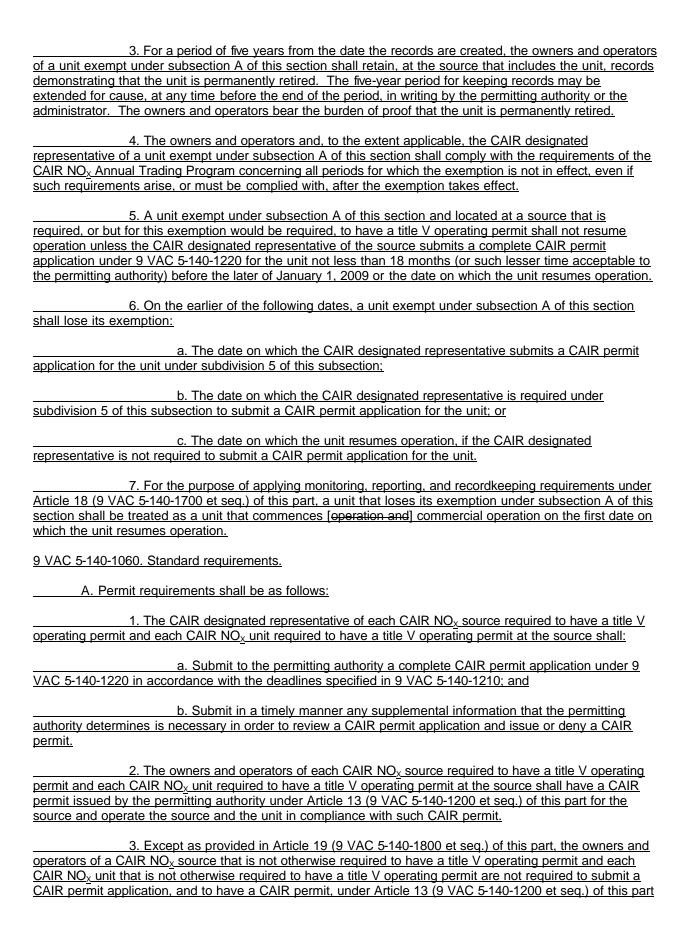
unit at the source or the CAIR NOx unit; b. Any holder of a leasehold interest in a CAIR NO_x unit at the source or the CAIR NOx unit; or c. Any purchaser of power from a CAIR NO_x unit at the source or the CAIR NO_x unit under a life-of-the-unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based (either directly or indirectly) on the revenues or income from such CAIR NO_x unit; or 2. With regard to any general account, any person who has an ownership interest with respect to the CAIR NO_x allowances held in the general account and who is subject to the binding agreement for the CAIR authorized account representative to represent the person's ownership interest with respect to CAIR NO_x allowances. "Permitting authority" means [the state air pollution control agency, local agency, other state agency, or other agency authorized by the administrator to issue or revise permits to meet the requirements of the CAIR NO_x Annual Trading Program in accordance with Article 13 (9 VAC 5-140-1200 et seq.) of this part or, if no such agency has been so authorized, the administrator. For the Commonwealth of Virginia, the permitting authority shall be] the State Air Pollution Control Board. "Potential electrical output capacity" means 33.0% of a unit's maximum design heat input, divided by 3,413 Btu/kWh, divided by 1,000 kWh/MWh, and multiplied by 8,760 hr/yr. "Receive" or "receipt of" means, when referring to the permitting authority or the administrator, to come into possession of a document, information, or correspondence (whether sent in hard copy or by authorized electronic transmission), as indicated in an official [correspondence] log, or by a notation made on the document, information, or correspondence, by the permitting authority or the administrator in the regular course of business. "Recordation," "record," or "recorded" means, with regard to CAIR NO_x allowances, the movement of CAIR NO_x allowances by the administrator into or between CAIR NO_x Allowance Tracking System accounts, for purposes of allocation, transfer, or deduction. "Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 75.22. ["Renewable energy unit" means an electric generator that began commercial operation after January 1, 2006 and is powered by (i) wind, solar, ocean thermal, wave, tidal, geothermal, or biomass energy, or (ii) fuel cells powered by hydrogen generated by a renewable energy source. Renewable energy does not include energy derived from: (i) material that has been treated or painted or derived from demolition or construction material; (ii) municipal, industrial or other multiple source solid waste; and (iii) co-firing of biomass with fossil fuels or solid waste.] ["Replacement," "replace," or "replaced" means, with regard to a unit, the demolishing of a unit, or the permanent shutdown and permanent disabling of a unit, and the construction of another unit (the replacement unit) to be used instead of the demolished or shutdown unit (the replaced unit).] "Repowered" means, with regard to a unit, replacement of a coal-fired boiler with one of the following coal-fired technologies at the same source as the coal-fired boiler: 1. Atmospheric or pressurized fluidized bed combustion: 2. Integrated gasification combined cycle; 3. Magnetohydrodynamics;

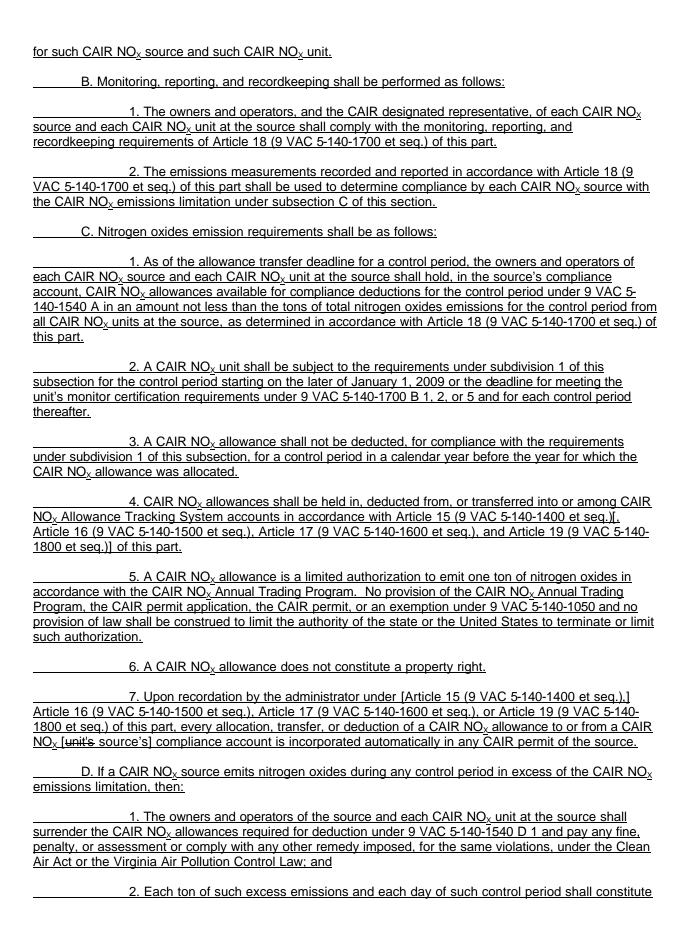


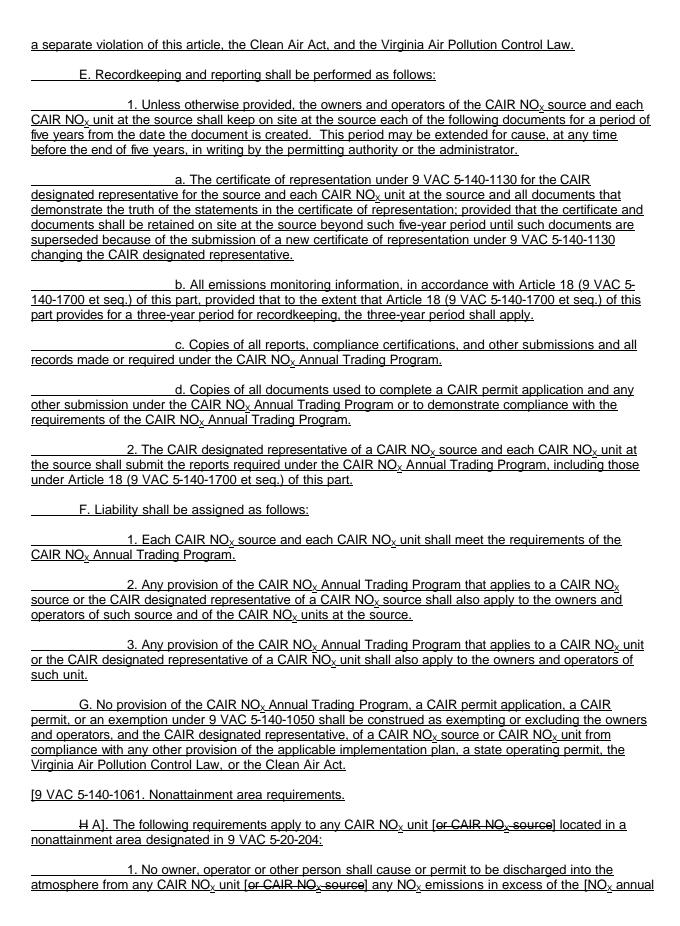
80-50 et seq.), Article 2 (9 VAC 5-80-310 et seq.), Article 3 (9 VAC 5-80-360 et seq.), and Article 4 (9 VAC 5-80-710 et seq.) of Part II of 9 VAC 5 Chapter 80.
"Ton" means 2,000 pounds. For the purpose of determining compliance with the CAIR NO _x emissions limitation, total tons of nitrogen oxides emissions for a control period shall be calculated as the sum of all recorded hourly emissions (or the mass equivalent of the recorded hourly emission rates) in accordance with Article 18 (9 VAC 5-140-1700 et seq.) of this part, but with any remaining fraction of a ton equal to or greater than 0.50 tons deemed to equal one ton and any remaining fraction of a ton less than 0.50 tons deemed to equal zero tons.
"Topping-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the reject heat from the electricity production is then used to provide useful thermal energy.
"Total energy input" means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration unit, excluding energy produced by the cogeneration unit itself.
"Total energy output" means, with regard to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.
"Unit" means a stationary, fossil-fuel-fired boiler or combustion turbine or other stationary, fossil-fuel-fired combustion device.
"Unit operating day" means a calendar day in which a unit combusts any fuel.
"Unit operating hour" or "hour of unit operation" means an hour in which a unit combusts any fuel.
"Useful power" means, with regard to a cogeneration unit, electricity or mechanical energy made available for use, excluding any such energy used in the power production process (which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls).
"Useful thermal energy" means, with regard to a cogeneration unit, thermal energy that is:
1. Made available to an industrial or commercial process (not a power production process), excluding any heat contained in condensate return or makeup water;
2. Used in a heating application (e.g., space heating or domestic hot water heating); or
3. Used in a space cooling application (i.e., thermal energy used by an absorption chiller).
"Utility power distribution system" means the portion of an electricity grid owned or operated by a utility and dedicated to delivering electricity to customers.
9 VAC 5-140-1030. Measurements, abbreviations, and acronyms.
Measurements, abbreviations, and acronyms used in this part are defined as follows:
Btu-British thermal unit. CO ₂ -carbon dioxide. [NO _x -nitrogen oxides. H ₂ O-water. Hg-mercury.] hr-hour.

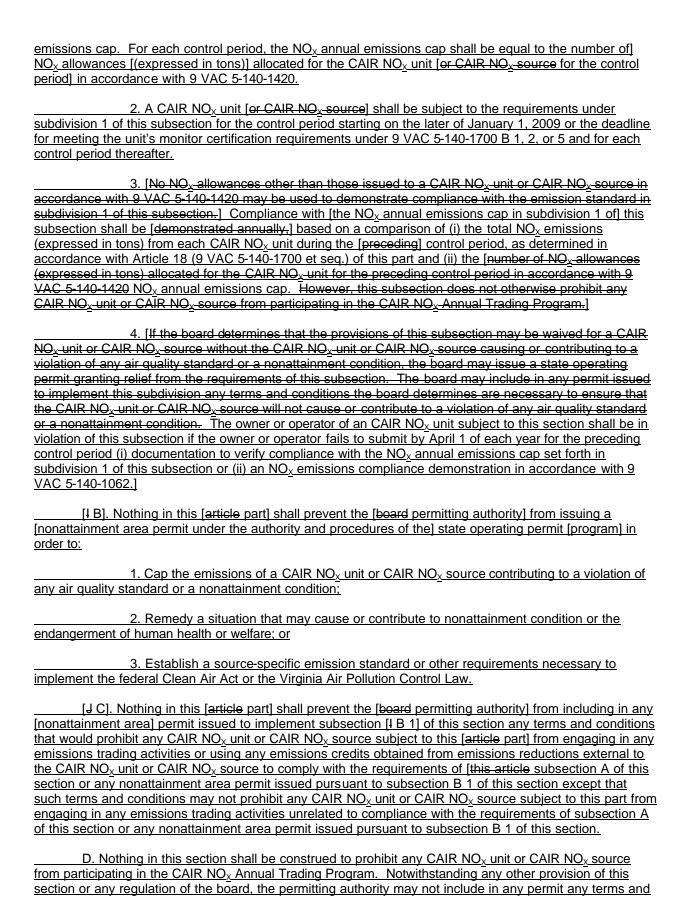
kW-kilowatt electrical. kWh-kilowatt hour. [lb-pound] mmBtu-million Btu. MWe-megawatt electrical. MWh-megawatt hour. [NO _x -nitrogen oxides.] O ₂ -oxygen. ppm-parts per million. [lb-pound.] scfh-standard cubic feet per hour. SO ₂ -sulfur dioxide. [H ₂ O-water.] yr-year.
9 VAC 5-140-1040. Applicability.
[A. Except as provided in subsection B of this section:
1. The following units shall be CAIR NO_x units, and any source that includes one or more such units shall be a CAIR NO_x source, subject to the requirements of this article and Article 12 (9 VAC 5-140-1100 et seq.) through Article 18 (9 VAC 5-140-1700 et seq.) of this part:
A. Except as provided in subsection B of this section, a any] stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since [the later of November 15, 1990 or] the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.
[2. If a stationary boiler or stationary combustion turbine that, under subdivision 1 of this subsection, is not a CAIR NO _x unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit shall become a CAIR NO _x unit as provided in subdivision 1 of this subsection on the first date on which it both combusts fossil fuel and serves such generator.
B. The units that meet the requirements set forth in subdivisions 1 a, 2 a, or 2 b of this subsection shall not be CAIR $NO_{\underline{X}}$ units:
1. a. Any unit that is a CAIR NO _x unit under subdivisions A 1 or 2 of this section:
(1) Qualifying as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and
(2) Not serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe supplying in any calendar year more than one-third of the unit's potential electric output capacity or 219,000 MWh, whicheve is greater, to any utility power distribution system for sale.]
B. For a unit that qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continues to qualify as a cogeneration unit, a cogeneration unit serving
at any time a generator with nameplate capacity of more than 25 MWe and supplying in any calendar year more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to
more than one-third of the unit's potential electric output capacity or 219,000 MWn, whichever is greater, to any utility power distribution system for sale.
b.] If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity [and meets the requirements of subdivision 1 a of this subsection for at least one calendar year] but subsequently no longer [qualifies as a cogeneration unit meets all such requirements], the unit shall [be subject to subsection A of this section become a CAIR NO _x unit] starting











conditions that restrict any emissions trading activities under the CAIR $NO_{\underline{x}}$ Annual Trading Program. Compliance with the CAIR $NO_{\underline{x}}$ Annual Trading Program and this section (including any nonattainment area permits issued pursuant to this section) shall be determined separately and in accordance with the terms of the provisions of each.
E. The provisions of subsection A of this section shall not apply once an area is no longer listed in 9 VAC 5-20-204 as nonattainment for any pollutant; however, regardless of the attainment status of the area, any nonattainment area permits issued to implement this section shall remain in effect until revoked by the permitting authority].
[9 VAC 5-140-1062. NO _x emissions compliance demonstration.
A. Compliance with the $NO_{\underline{x}}$ annual emissions cap set forth in 9 VAC 5-140-1061 A 1 may also be achieved through an $NO_{\underline{x}}$ emissions compliance demonstration meeting the requirements of this section.
B. The $NO_{\underline{x}}$ emissions compliance demonstration submitted pursuant to this section may include one or more CAIR $NO_{\underline{x}}$ units in a CAIR $NO_{\underline{x}}$ source under common control and located in the nonattainment area.
C. NO_{χ} emissions compliance demonstrations shall be submitted to the permitting authority by April 1 of each year for the preceding control period.
$\underline{ \text{D. A complete NO}_{\underline{x}} \text{ emissions compliance demonstration shall include the following elements in a}} \\ \underline{ \text{format acceptable to the permitting authority:}}$
1. Identification of each CAIR $NO_{\underline{x}}$ unit in the $NO_{\underline{x}}$ emissions compliance demonstration.
2. The number of $NO_{\underline{x}}$ allowances (expressed in tons) allocated for each CAIR $NO_{\underline{x}}$ unit for the preceding control period.
3. The total NO $_{\underline{x}}$ emissions (expressed in tons) from each CAIR NO $_{\underline{x}}$ unit during the preceding control period.
4. The calculation for the equation in subsection E of this section.
E. Compliance with this section shall be demonstrated with the following equation:
$\frac{\underline{\underline{S}_{i=1}(ANOE_i) \mathbf{f} S_{i=1}^{\underline{n}}(X)}}{\underline{S}_{i=1}(X)}$
where:
n is the number of CAIR NO $_{\underline{x}}$ units in the NO $_{\underline{x}}$ emissions compliance demonstration (n may equal 1).
S is the sum of all i CAIR NO _x units.
i is an CAIR NO _x unit identified in subsection B of this section.
ANOE (Actual Nitrogen Oxides Emissions) are the total NO $_{\underline{x}}$ emissions (expressed in tons) from each CAIR NO $_{\underline{x}}$ unit during the preceding control period, as determined in accordance with Article 18 (9 VAC 5-140-1700 et seq.) of this part.
$\underline{ \text{X is the number of NO}_{\underline{x}} \text{ allowances (expressed in tons) allocated for the CAIR NO}_{\underline{x}} \text{ unit for the preceding control period in accordance with 9 VAC 5-140-1420.} }$
F. The emissions measurements recorded and reported in accordance with Article 18 (9 VAC 5-

140-1700 et seq.) of this part shall be used to determine compliance by each CAIR NO_x source with the NO_x annual emissions cap set forth in 9 VAC 5-140-1061 A.]

9 VAC 5-140-1070. Computation of time.

- A. Unless otherwise stated, any time period scheduled, under the CAIR NO_X Annual Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.
- B. Unless otherwise stated, any time period scheduled, under the CAIR NO_X Annual Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.
- C. Unless otherwise stated, if the final day of any time period, under the CAIR NO_x Annual Trading Program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

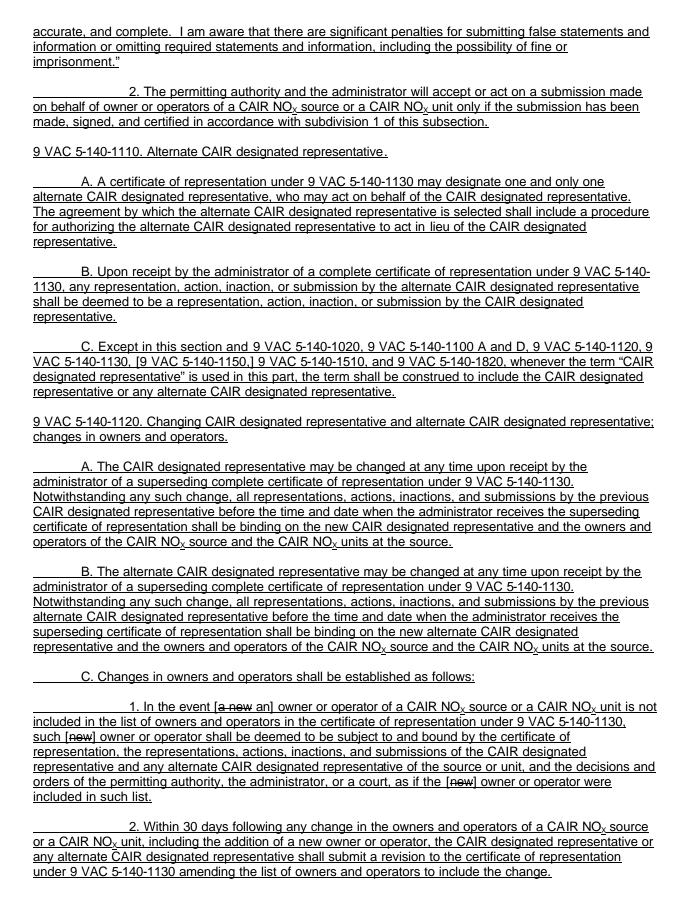
9 VAC 5-140-1080. Appeal [Procedures procedures].

The appeal procedures for decisions of the administrator under the CAIR NO_X Annual Trading Program are set forth in 40 CFR Part 78.

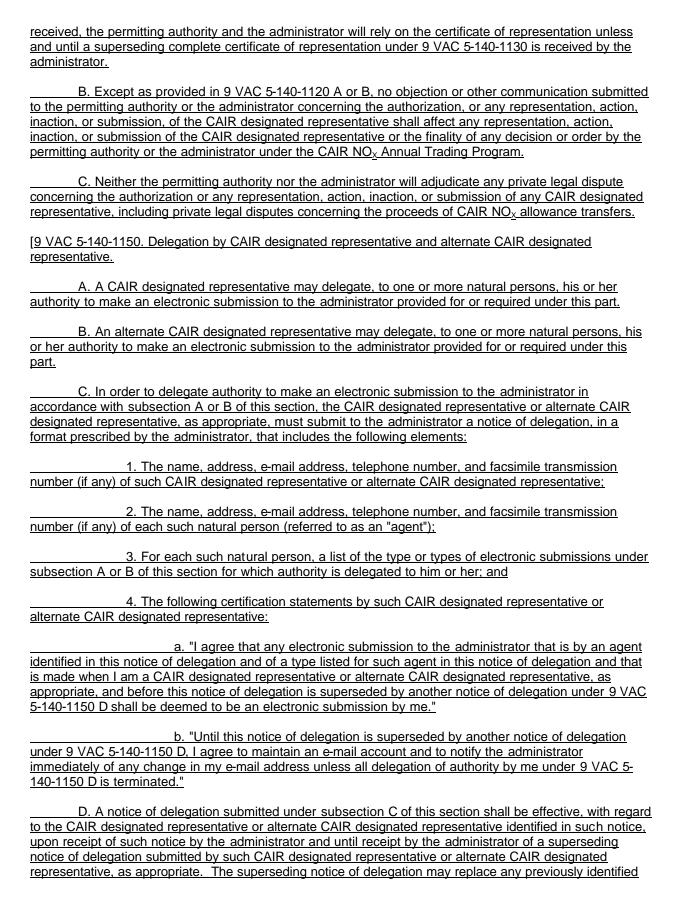
Article 12. CAIR Designated Representative for CAIR NO_x Sources.

9 VAC 5-140-1100. Authorization and responsibilities of CAIR designated representative.

- A. Except as provided under 9 VAC 5-140-1110, each CAIR NO_X source, including all CAIR NO_X units at the source, shall have one and only one CAIR designated representative, with regard to all matters under the CAIR NO_X Annual Trading Program concerning the source or any CAIR NO_X unit at the source.
- B. The CAIR designated representative of the CAIR NO_x source shall be selected by an agreement binding on the owners and operators of the source and all CAIR NO_x units at the source and shall act in accordance with the certification statement in 9 VAC 5-140-1130 A 4 d.
- C. Upon receipt by the administrator of a complete certificate of representation under 9 VAC 5-140-1130, the CAIR designated representative of the source shall represent and, by the CAIR designated representative's representations, actions, inactions, or submissions, legally bind each owner and operator of the CAIR NO_x source represented and each CAIR NO_x unit at the source in all matters pertaining to the CAIR NO_x Annual Trading Program, notwithstanding any agreement between the CAIR designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CAIR designated representative by the permitting authority, the administrator, or a court regarding the source or unit.
- D. No CAIR permit will be issued, no emissions data reports will be accepted, and no CAIR NO_X Allowance Tracking System account will be established for a CAIR NO_X unit at a source, until the administrator has received a complete certificate of representation under 9 VAC 5-140-1130 for a CAIR designated representative of the source and the CAIR NO_X units at the source.
- E.1. Each submission under the CAIR NO_x Annual Trading Program shall be submitted, signed, and certified by the CAIR designated representative for each CAIR NO_x source on behalf of which the submission is made. Each such submission shall include the following certification statement by the CAIR designated representative: "I am authorized to make this submission on behalf of the owners and operators of the source or units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true,



9 VAC 5-140-1130. Certificate of representation. A. A complete certificate of representation for a CAIR designated representative or an alternate CAIR designated representative shall include the following elements in a format prescribed by the administrator: 1. Identification of the CAIR NO_x source, and each CAIR NO_x unit at the source, for which the certificate of representation is submitted[, including identification and nameplate capacity of each generator served by such unit]. 2. The name, address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the CAIR designated representative and any alternate CAIR designated representative. 3. A list of the owners and operators of the CAIR NO_x source and of each CAIR NO_x unit at the source. 4. The following certification statements by the CAIR designated representative and any alternate CAIR designated representative: a. "I certify that I was selected as the CAIR designated representative or alternate CAIR designated representative, as applicable, by an agreement binding on the owners and operators of the source and each CAIR NO_x unit at the source." b. "I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO_x Annual Trading Program on behalf of the owners and operators of the source and of each CAIR NO_x unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions." c. "I certify that the owners and operators of the source and of each CAIR NO_x unit at the source shall be bound by any order issued to me by the administrator, the permitting authority, or a court regarding the source or unit." d. "Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, a CAIR NO_x unit, or where a [utility or industrial] customer purchases power from a CAIR NO_x unit under a life-of-the-unit, firm power contractual arrangement, I certify that: I have given a written notice of my selection as the 'CAIR designated representative' or 'alternate CAIR designated representative', as applicable, and of the agreement by which I was selected to each owner and operator of the source and of each CAIR NO_x unit at the source; and CAIR NO_x allowances and proceeds of transactions involving CAIR NO_x allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, except that, if such multiple holders have expressly provided for a different distribution of CAIR NO_x allowances by contract, CAIR NO_x allowances and proceeds of transactions involving CAIR NO_x allowances will be deemed to be held or distributed in accordance with the contract." 5. The signature of the CAIR designated representative and any alternate CAIR designated representative and the dates signed. B. Unless otherwise required by the permitting authority or the administrator, documents of agreement referred to in the certificate of representation shall not be submitted to the permitting authority or the administrator. Neither the permitting authority nor the administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted. 9 VAC 5-140-1140. Objections concerning CAIR designated representative. A. Once a complete certificate of representation under 9 VAC 5-140-1130 has been submitted and



agent, add a new agent, or eliminate entirely any delegation of authority. E. Any electronic submission covered by the certification in subdivision C 4 a of this section and made in accordance with a notice of delegation effective under subsection D of this section shall be deemed to be an electronic submission by the CAIR designated representative or alternate CAIR designated representative submitting such notice of delegation.] Article 13. Permits. 9 VAC 5-140-1200. General CAIR [NO_x] Annual Trading Program permit requirements. A. For each CAIR NO_x source required to have a title V operating permit or required, under Article 19 (9 VAC 5-140-1800 et seq.) of this part, to have a title V operating permit or state operating permit, such permit shall include a CAIR permit administered by the permitting authority for the title V operating permit or the state operating permit as applicable. The CAIR portion of the title V permit or state operating permit as applicable shall be administered in accordance with the permitting authority's title V operating permit regulations or regulations for state operating permits as applicable, except as provided otherwise by [9 VAC 5-140-1050,] this article[,] and Article 19 (9 VAC 5-140-1800 et seq.) of this part. B. Each CAIR permit shall contain, with regard to the CAIR NO_x source and the CAIR NO_x units at the source covered by the CAIR permit, all applicable CAIR NO_x Annual Trading Program, CAIR NO_x Ozone Season Trading Program, and CAIR SO₂ Trading Program requirements and shall be a complete and separable portion of the title V operating permit or state operating permit under subsection A of this section. 9 VAC 5-140-1210. Submission of CAIR permit applications. A. The CAIR designated representative of any CAIR NO_x source required to have a title V operating permit shall submit to the permitting authority a complete CAIR permit application under 9 VAC 5-140-1220 for the source covering each CAIR NO_x unit at the source at least 18 months (or such lesser time provided by the permitting authority) before the later of January 1, 2009 or the date on which the CAIR NO_x unit commences [commercial] operation[, except as provided in 9 VAC 5-140-1830 A]. B. For a CAIR NO_x source required to have a title V operating permit, the CAIR designated representative shall submit a complete CAIR permit application under 9 VAC 5-140-1220 for the source covering each CAIR NO_x unit at the source to renew the CAIR permit in accordance with the permitting authority's title V operating permit regulations addressing permit renewal[, except as provided in 9 VAC 5-140-1830 B1. 9 VAC 5-140-1220. Information requirements for CAIR permit applications. A complete CAIR permit application shall include the following elements concerning the CAIR NO_X source for which the application is submitted, in a format acceptable to the permitting authority: A. Identification of the CAIR NO_x source; B. Identification of each CAIR NO_x unit at the CAIR NO_x source; and

A. Each CAIR permit will contain, in a format acceptable to the permitting authority, all elements required for a complete CAIR permit application under 9 VAC 5-140-1220.

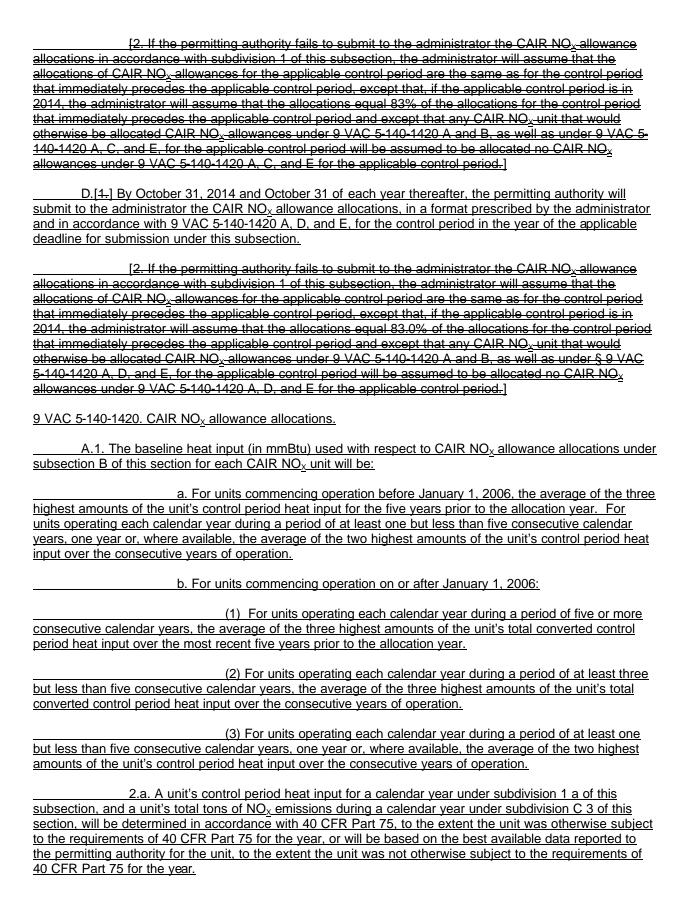
C. The standard requirements under 9 VAC 5-140-1060.

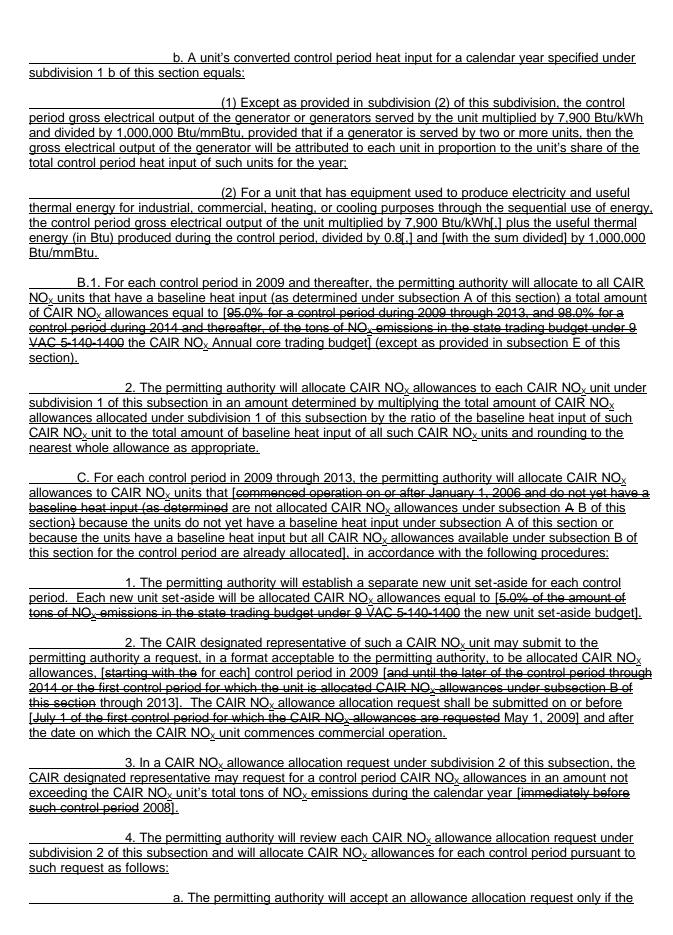
9 VAC 5-140-1230. CAIR permit contents and term.

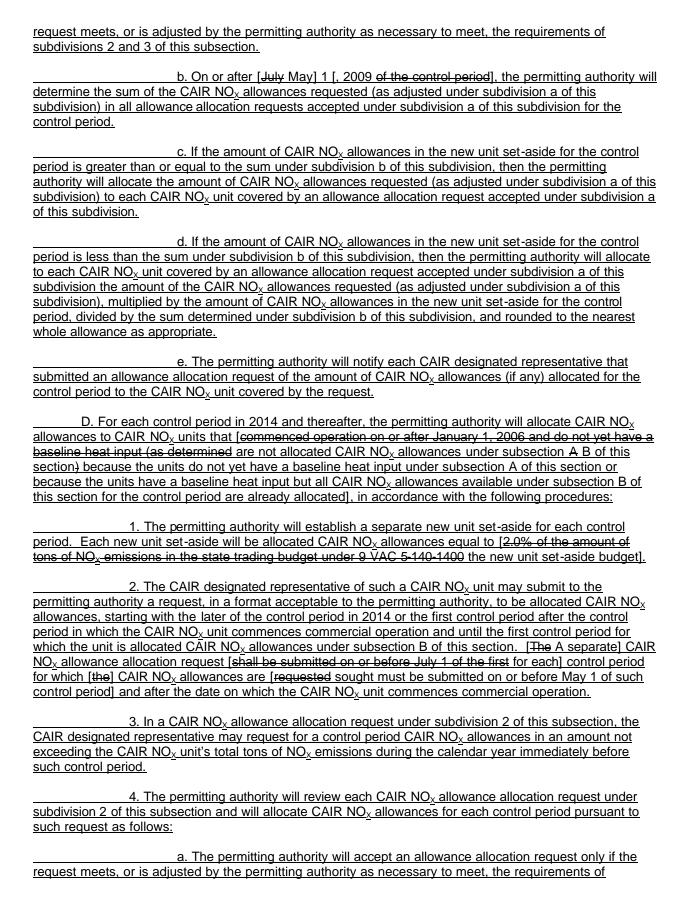
B. Each CAIR permit is deemed to incorporate automatically the definitions of terms under 9 VAC 5-140-1020 and, upon recordation by the administrator under [Article 15 (9 VAC 5-140-1400 et seq.),] Article

16 (9 VAC 5-140-1500 et seq.), Article 17 (9 VAC 5-140-1600 et seq.), or Article 19 (9 VAC 5-140-1800 et seq.) of this part, every allocation, transfer, or deduction of a CAIR NO_x allowance to or from the compliance account of the CAIR NO_x source covered by the permit. C. The term of the CAIR permit will be set by the permitting authority, as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, or renewal of the CAIR NO_x source's title V operating permit or state operating permit as applicable. 9 VAC 5-140-1240. CAIR permit revisions. Except as provided in 9 VAC 5-140-1230 B, the permitting authority will revise the CAIR permit, as necessary, in accordance with the permitting authority's title V operating permit regulations or the permitting authority's regulations for state operating permits as applicable addressing permit revisions. Article 14. [Reserved]. 9 VAC 5-140-1300, [Reserved]. Article 15. CAIR NO_x Allowance Allocations. 9 VAC 5-140-1400. [State CAIR NO_x Annual] trading budgets. The [state CAIR NO_x Annual] trading budgets for annual allocations of CAIR NO_x allowances [apportioned to all CAIR NO_x units and energy efficiency units and renewable energy units] for the control periods are as follows: A. For use in each control period in 2009 through 2014, the total number of NO_x tons [apportioned to all CAIR NO_x units is 36.074. B. For use in each control period in 2015 and thereafter, the total number of NO_x tons [apportioned to all CAIR NO_x units is 30.062. 9 VAC 5-140-1410. Timing requirements for CAIR NO_x allowance allocations. A. By October 31, 2006, the permitting authority will submit to the administrator the CAIR NO_x allowance allocations, in a format prescribed by the administrator and in accordance with 9 VAC 5-140-1420 A and B, for the control periods in 2009, 2010, 2011, 2012, and 2013. B.[4.] By October 31, 2009 and October 31 of each year thereafter, the permitting authority will submit to the administrator the CAIR NO_x allowance allocations, in a format prescribed by the administrator and in accordance with 9 VAC 5-140-1420 A and B, for the control period in the fifth year after the year of the applicable deadline for submission under this subsection. [2. If the permitting authority fails to submit to the administrator the CAIR NO_x allowance allocations in accordance with subdivision 1 of this subsection, the administrator will assume that the allocations of CAIR NO_x allowances for the applicable control period are the same as for the control period that immediately precedes the applicable control period, except that, if the applicable control period is in 2014, the administrator will assume that the allocations equal 83.0% of the allocations for the control period that immediately precedes the applicable control period.] C.[4.] By October 31, 2009, the permitting authority will submit to the administrator the CAIR NO_X allowance allocations, in a format prescribed by the administrator and in accordance with 9 VAC 5-140-1420

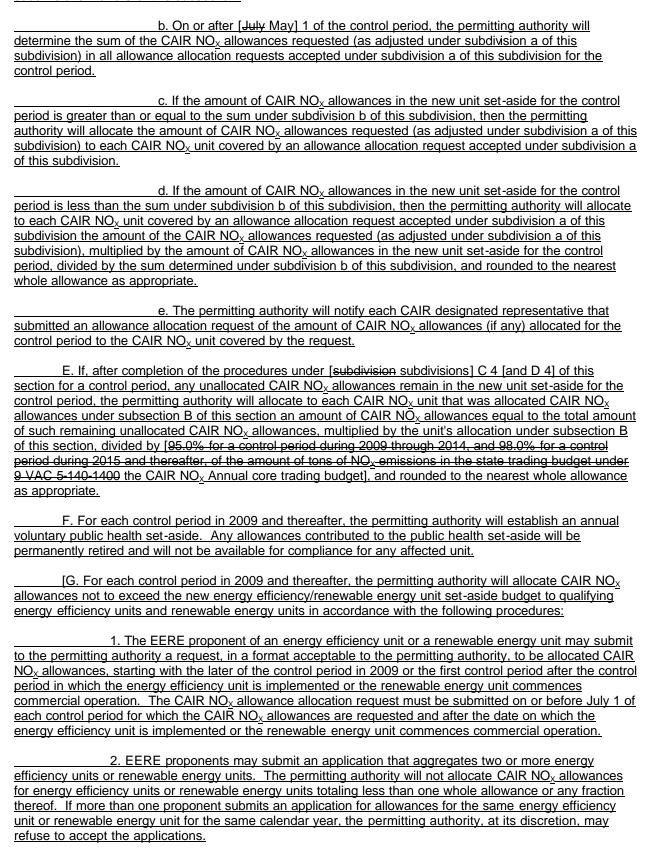
A, C, and E, for the control periods in 2009, 2010, 2011, 2012, and 2013.

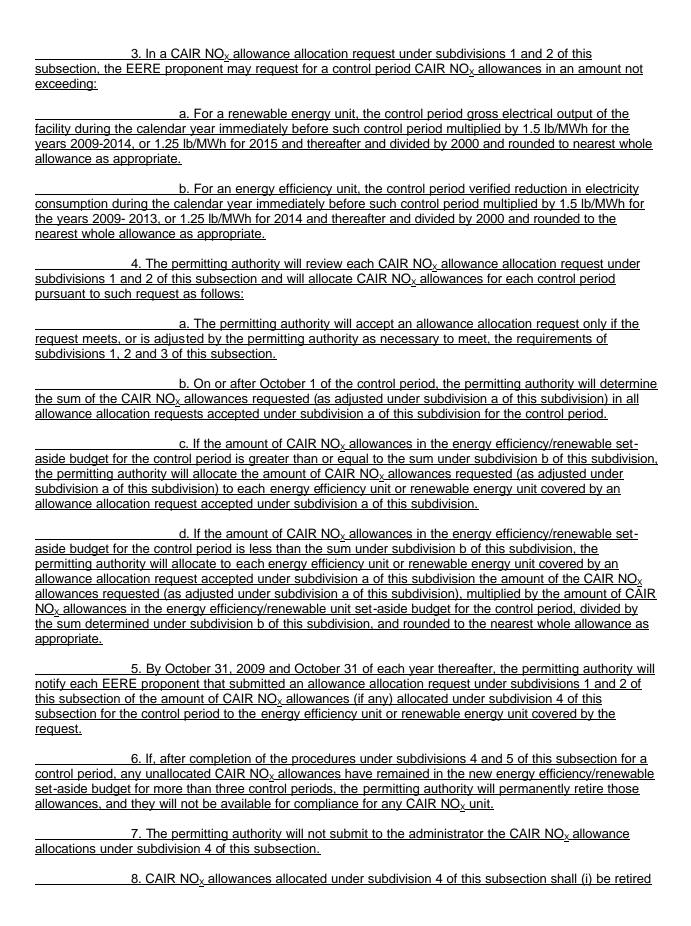






subdivisions 2 and 3 of this subsection.





permanently by the EERE proponent making the request under subdivision 2 of this subsection, (ii) shall not be considered valid or capable of being lawfully traded under the CAIR NO_x Annual Trading Program, and (iii) shall not be available for compliance for any CAIR NO_x unit.]

9 VAC 5-140-1430. Compliance supplement pool.
A. [The provisions of this section shall apply to early reduction credit (ERC) units. A ERC unit is a CAIR NO _x unit which is (i) identified as such in 9 VAC 5-140-1040 and (ii) part of a group of units under single ownership with combined emissions of NOx that exceeded 40,000 tons in 2004.
B.] In addition to the CAIR $NO_{\underline{x}}$ allowances allocated under 9 VAC 5-140-1420, the permitting authority may allocate for the control period in 2009 up to 5,134 CAIR $NO_{\underline{x}}$ allowances [(hereinafter called the compliance supplement pool)] to [CAIR $NO_{\underline{x}}$ ERC] units.
[B. For any CAIR NO _x unit that achieves NO _x emission reductions in 2007 and 2008 that are not necessary to comply with any state or federal emissions limitation applicable during such years, the CAIR designated representative of the unit may request early reduction credits, and allocation of CAIR NO _x allowances from the compliance supplement pool under subsection A of this section for such early reduction credits, in accordance with the following:
1. The owners and operators of such CAIR NO_x unit shall monitor and report the NO_x emissions rate and the heat input of the unit in accordance with Article 18 (9 VAC 5-140-1700 et seq.) of this part in each control period for which early reduction credit is requested.
2. The CAIR designated representative of such CAIR NO _x unit shall submit to the permitting authority by July 1, 2009 a request, in a format acceptable to the permitting authority, for allocation of an amount of CAIR NO _x allowances from the compliance supplement pool not exceeding the sum of the amounts (in tons) of the unit's NO _x emission reductions in 2007 and 2008 that are not necessary to comply with any state or federal emissions limitation applicable during such years, determined in accordance with Article 18 (9 VAC 5-140-1700 et seq.) of this part.
C. For any CAIR NO _x unit whose compliance with CAIR NO _x emissions limitation for the control period in 2009 would create an undue risk to the reliability of electricity supply during such control period, the CAIR designated representative of the unit may request the allocation of CAIR NO _x allowances from the compliance supplement pool under subsection A of this section, in accordance with the following:
1. The CAIR designated representative of such CAIR NO _x unit shall submit to the permitting authority by July 1, 2009 a request, in a format acceptable to the permitting authority, for allocation of an amount of CAIR NO _x allowances from the compliance supplement pool not exceeding the minimum amount of CAIR NO _x allowances necessary to remove such undue risk to the reliability of electricity supply.
2. In the request under subdivision 1 of this subsection, the CAIR designated representative of such CAIR NO _x unit shall demonstrate that, in the absence of allocation to the unit of the amount of CAIR NO _x allowances requested, the unit's compliance with CAIR NO _x emissions limitation for the control period in 2009 would create an undue risk to the reliability of electricity supply during such control period. This demonstration shall include a showing that it would not be feasible for the owners and operators of the unit to:
a. Obtain a sufficient amount of electricity from other electricity generation facilities, during the installation of control technology at the unit for compliance with the CAIR NO _x emissions limitation, to prevent such undue risk; or

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the control periods in 2007 or 2008, or both, equal to the compliance supplement pool (CSP). The early

sufficient amount of CAIR NO_x allowances to prevent such undue risk.]

b. Obtain under subsections B and D of this section, or otherwise obtain, a

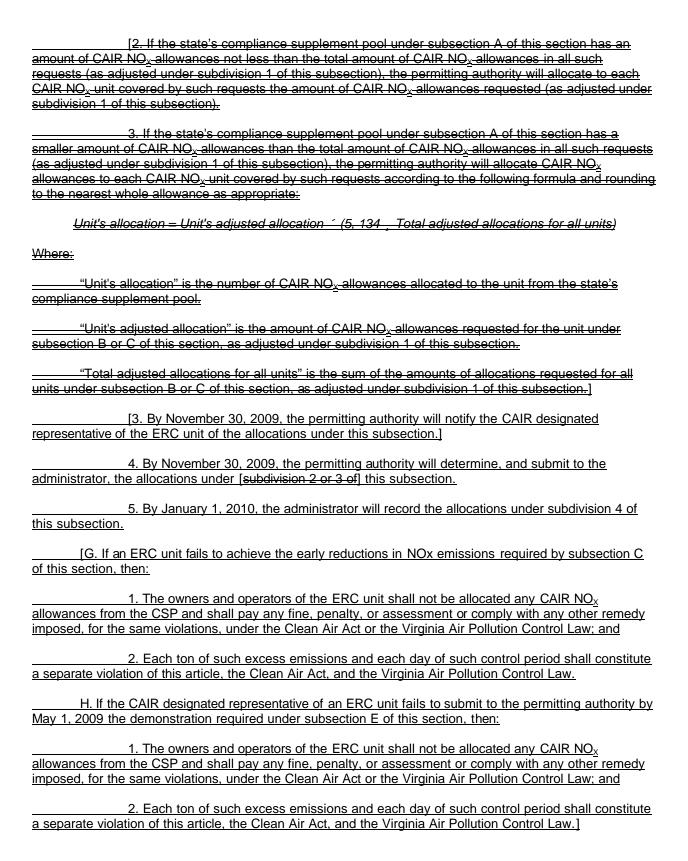
[C. ERC units shall in the collective achieve an amount of early reductions in NOx emissions during

reductions in NOx emissions required for each ERC unit shall be equal to the amount of CAIR NOx allowances allocated to each ERC unit under subsection D of this section. D. By April 1, 2007, the permitting authority will make a preliminary determination of the amount of CAIR NO_x allowances in the CSP to be allocated to each ERC unit and notify the CAIR designated representative of the ERC unit. 1. The amount of CAIR NO_x allowances in the CSP to be allocated to each ERC unit will be determined by multiplying the total amount of tons in the CSP by the ratio of the baseline heat input of each ERC unit to the total amount of baseline heat input of all ERC units and rounding to the nearest whole allowance as appropriate. 2. The baseline heat input (in mmBtu) used with respect to CAIR NO_x allowance allocations under subdivision 1 of this subsection for each ERC unit shall be the unit's baseline heat input for the calendar vear 2004. 3. A unit's baseline heat input for calendar year 2004, and a unit's total tons of NO_X emissions during calendar years 2007 and 2008, shall be determined in accordance with 40 CFR Part 75, to the extent the unit was otherwise subject to the requirements of 40 CFR Part 75 for the year, or shall be based on the best available data reported to the permitting authority for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR Part 75 for the year. E. The CAIR designated representative of an ERC unit shall submit to the permitting authority by May 1, 2009 a demonstration, in a format acceptable to the permitting authority, of the unit's compliance with subsection C of this section. 1. The demonstration shall set forth the amounts (in tons) of the unit's NO_x emission reductions in 2007 and 2008 that are not necessary to comply with an average NO_x emission rate of 0.25 lb/mmBtu during such years, determined in accordance with Article 18 (9 VAC 5-140-1700 et seq.) of this part. 2. The demonstration shall include a calculation of the sum of the unit's heat input for the control period in 2007 multiplied by the difference (if any greater than zero) between 0.25 lb/mmBtu and the unit's NO_x emission rate for the control period in 2007 plus the unit's heat input for the control period in 2008 multiplied by the difference (if any greater than zero) between 0.25 lb/mmBtu and the unit's NO_x emission rate for the control period in 2008, determined in accordance with Article 18 (9 VAC 5-140-1700 et seq.) of this part and with the sum divided by 2,000 lb/ton and rounded to the nearest whole number of tons as appropriate. 3. The demonstration shall be based on the NO_x emissions rate and the heat input of the ERC unit monitored and reported in accordance with Article 18 (9 VAC 5-140-1700 et seq.) of this part in each control period for which early reduction reductions are achieved. 4. Compliance with subsection C of this section may be demonstrated in the aggregate for all ERC units under single ownership.] [D F. The permitting authority will review each request compliance demonstration under subsection B or C E of this section submitted by July May 1, 2009 and will allocate CAIR NO_x allowances for the control period in 2009 to CAIR NOx ERC units and covered by such request demonstration] as follows: 1. [The permitting authority will accept a compliance demonstration only if the

necessary adjustments to the request demonstration to ensure that the amount of the CAIR NO_x allowances requested emissions reduction demonstrated meets the requirements of subsection B or C] of this section.

2. Upon receipt of each such request demonstration, the permitting authority will make any

demonstration meets the requirements of subsection E 1 through 2 of this section.

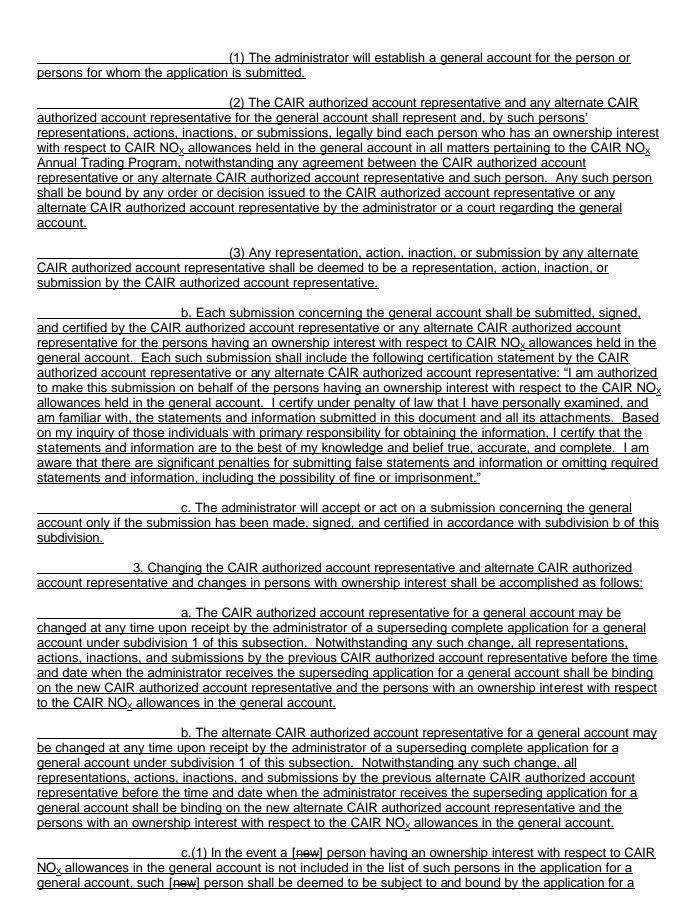


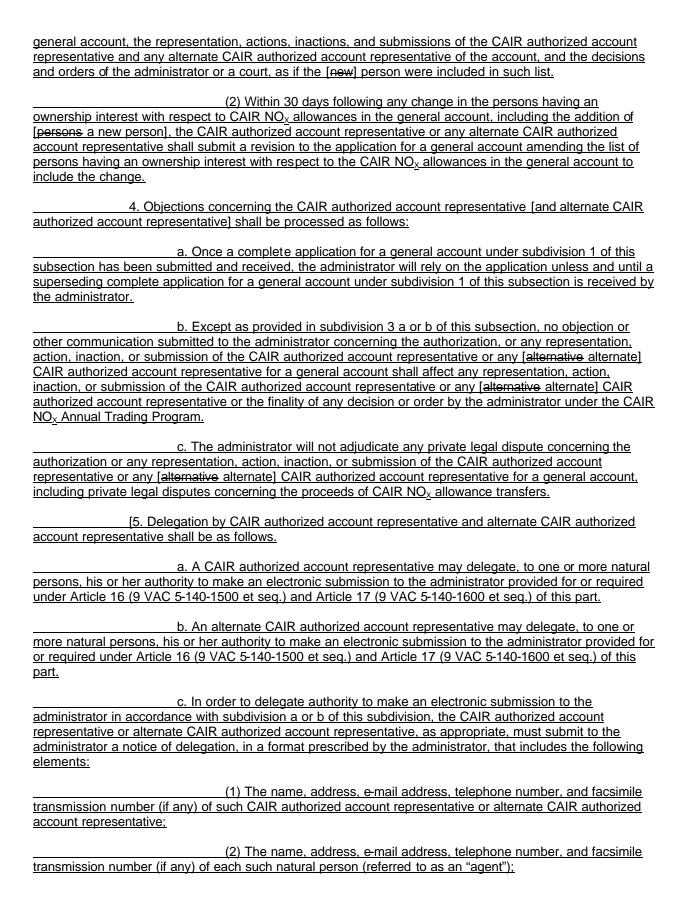
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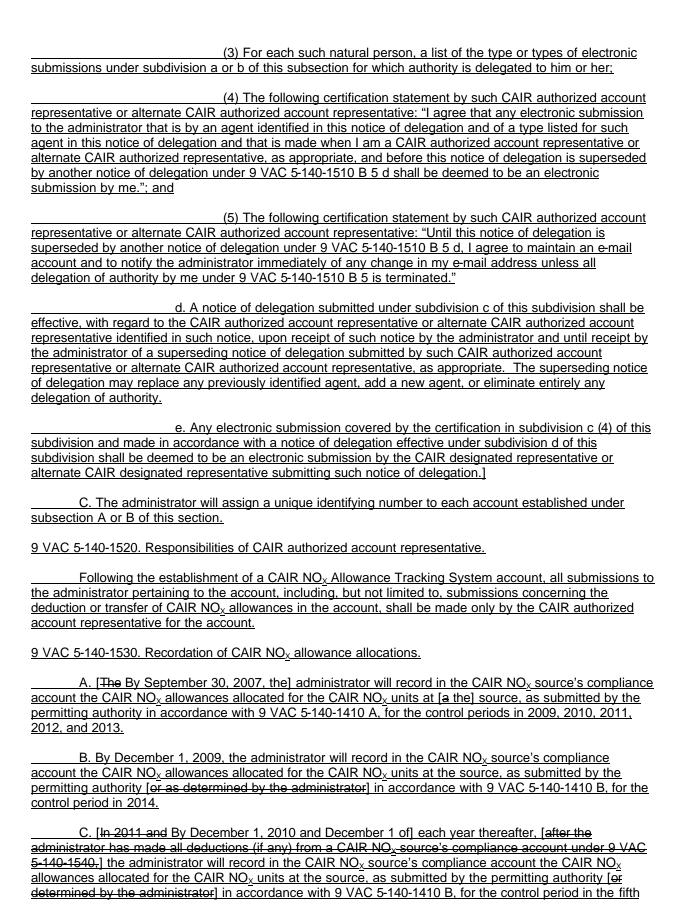
CAIR NO_x Allowance Tracking System.

9 VAC 5-140-1500. [Reserved].

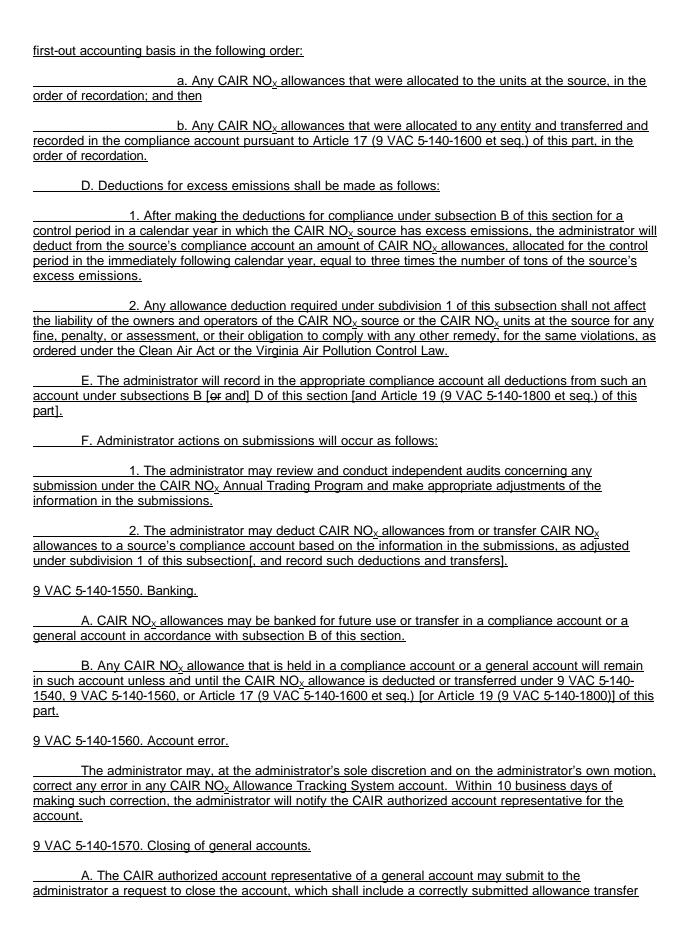
9 VAC 5-140-1510. Establishment of accounts.
A. Except as provided in 9 VAC 5-140-1840 E, upon receipt of a complete certificate of representation under 9 VAC 5-140-1130, the administrator will establish a compliance account for the CAIR NO _x source for which the certificate of representation was submitted unless the source already has a compliance account.
B. General accounts shall be established as follows:
1. Applications for general accounts shall be submitted as follows:
a. Any person may apply to open a general account for the purpose of holding and transferring CAIR NO _X allowances. An application for a general account may designate one and only one CAIR authorized account representative and one and only one alternate CAIR authorized account representative who may act on behalf of the CAIR authorized account representative. The agreement by which the alternate CAIR authorized account representative is selected shall include a procedure for authorizing the alternate CAIR authorized account representative to act in lieu of the CAIR authorized account representative.
b. A complete application for a general account shall be submitted to the administrator and shall include the following elements in a format prescribed by the administrator:
(1) Name, mailing address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the CAIR authorized account representative and any alternate CAIR authorized account representative;
(2) Organization name and type of organization, if applicable;
(3) A list of all persons subject to a binding agreement for the CAIR authorized account representative and any alternate CAIR authorized account representative to represent their ownership interest with respect to the CAIR NO _x allowances held in the general account;
(4) The following certification statement by the CAIR authorized account representative and any alternate CAIR authorized account representative: "I certify that I was selected as the CAIR authorized account representative or the alternate CAIR authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CAIR NO _x allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO _x Annual Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the administrator or a court regarding the general account."
(5) The signature of the CAIR authorized account representative and any
alternate CAIR authorized account representative and the dates signed.
c. Unless otherwise required by the permitting authority or the administrator, documents of agreement referred to in the application for a general account shall not be submitted to the permitting authority or the administrator. Neither the permitting authority nor the administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.
2. Authorization of a CAIR authorized account representative [and alternate CAIR authorized account representative] shall be established as follows:
a. Upon receipt by the administrator of a complete application for a general account under subdivision 1 of this subsection:







year after the year of the [control period applicable deadline] for [which such deductions were or could have been made recordation under this section]. D. By December 1, 2009 [and December 1 of each year thereafter], the administrator will record in the CAIR NO_x source's compliance account the CAIR NO_x allowances allocated for the CAIR NO_x units at the source, as submitted by the permitting authority [or determined by the administrator] in accordance with 9 VAC 5-140-1410 C, for the [control period in the year of the applicable deadline for recordation under this subsection control periods in 2009, 2010, 2011, 2012, and 2013]. E. [By December 1, 2014 and December 1 of each year thereafter, the administrator will record in the CAIR NO_x source's compliance account the CAIR NO_x allowances allocated for the CAIR NO_x units at the source, as submitted by the permitting authority in accordance with 9 VAC 5-140-1410 D, for the control period in the year of the applicable deadline for recordation under this subsection. F.] When recording the allocation of CAIR NO_x allowances for a CAIR NO_x unit in a compliance account, the administrator will assign each CAIR NOx allowance a unique identification number that will include digits identifying the year of the control period for which the CAIR NO_x allowance is allocated. 9 VAC 5-140-1540. Compliance with CAIR NO_x emissions limitation. A. The CAIR NO_x allowances are available to be deducted for compliance with a source's CAIR NO_x emissions limitation for a control period in a given calendar year only if the CAIR NO_x allowances: 1. Were allocated for the control period in the year or a prior year; [and] 2. Are held in the compliance account as of the allowance transfer deadline for the control period or are transferred into the compliance account by a CAIR NO_x allowance transfer correctly submitted for recordation under 9 VAC 5-140-1600 [and 9 VAC 5-140-1610] by the allowance transfer deadline for the control period[; and 3. Are not necessary for deductions for excess emissions for a prior control period under subsection D of this section]. B. Following the recordation, in accordance with 9 VAC 5-140-1610, of CAIR NO_x allowance transfers submitted for recordation in a source's compliance account by the allowance transfer deadline for a control period, the administrator will deduct from the compliance account CAIR NOx allowances available under subsection A of this section in order to determine whether the source meets the CAIR NO_x emissions limitation for the control period, as follows: 1. Until the amount of CAIR NO_x allowances deducted equals the number of tons of total nitrogen oxides emissions, determined in accordance with Article 18 (9 VAC 5-140-1700 et seq.) of this part, from all CAIR NO_x units at the source for the control period; or 2. If there are insufficient CAIR NO_x allowances to complete the deductions in subdivision 1 of this subsection, until no more CAIR NO_X allowances available under subsection A of this section remain in the compliance account. C.1. The CAIR authorized account representative for a source's compliance account may request that specific CAIR NO_x allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with subsection B or D of this section. Such request shall be submitted to the administrator by the allowance transfer deadline for the control period and include, in a format prescribed by the administrator, the identification of the CAIR NO_x source and the appropriate serial numbers. 2. The administrator will deduct CAIR NO_x allowances under subsection B or D of this section from the source's compliance account, in the absence of an identification or in the case of a partial identification of CAIR NO_x allowances by serial number under subdivision 1 of this subsection, on a first-in,



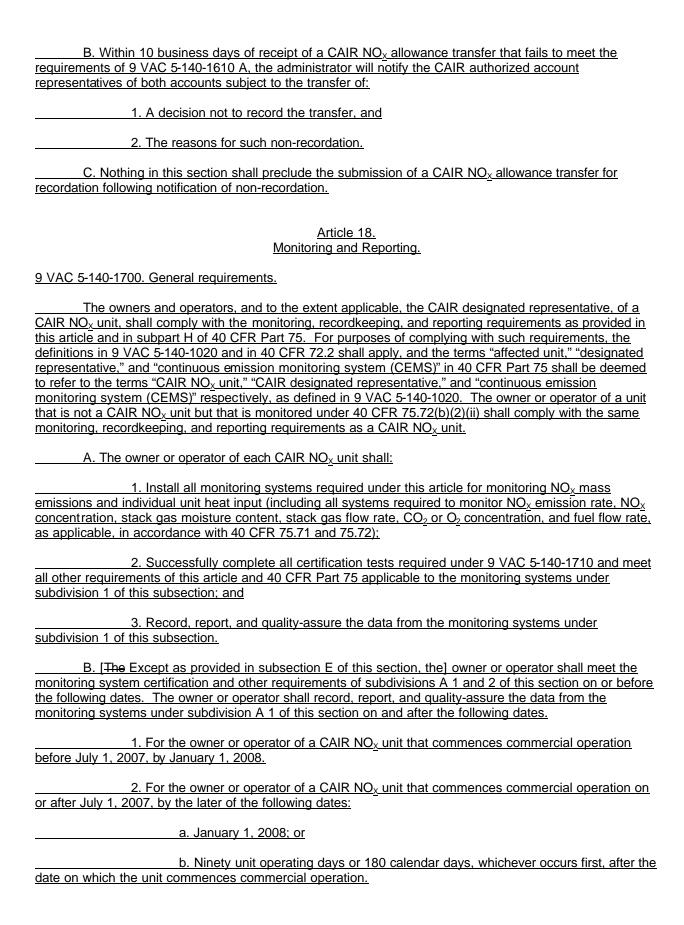
under 9 VAC 5-140-1600 [and 9 VAC 5-140-1610] for any CAIR NO_x allowances in the account to one or more other CAIR NO_x Allowance Tracking System accounts.

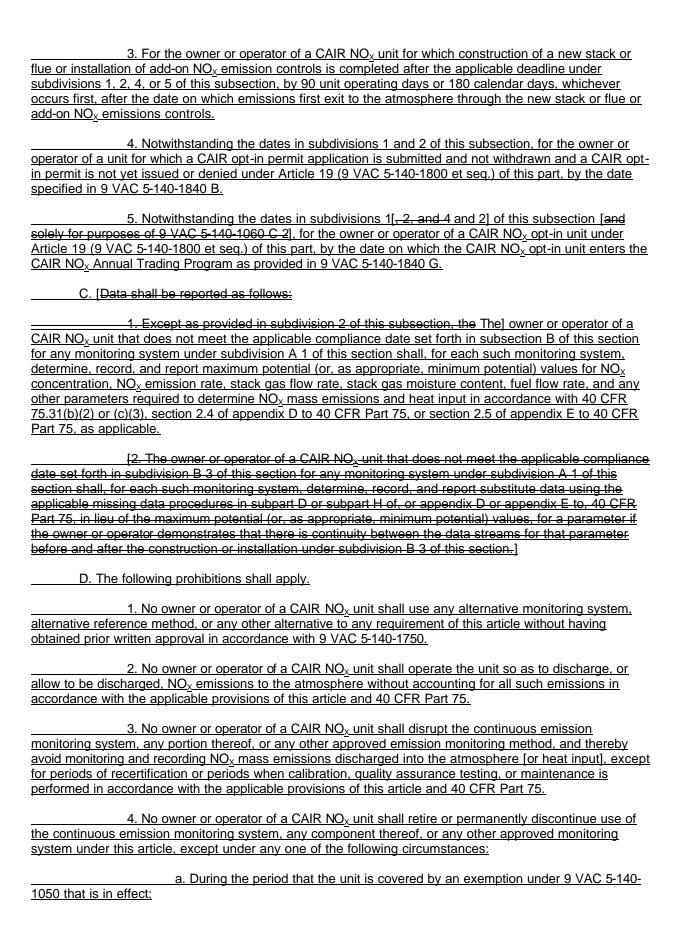
B. If a general account has no allowance transfers in or out of the account for a 12-month period or longer and does not contain any CAIR $NO_{\underline{x}}$ allowances, the administrator may notify the CAIR authorized account representative for the account that the account will be closed following 20 business days after the notice is sent. The account will be closed after the 20-day period unless, before the end of the 20-day period, the administrator receives a correctly submitted transfer of CAIR $NO_{\underline{x}}$ allowances into the account under 9 VAC 5-140-1600 [and 9 VAC 5-140-1610] or a statement submitted by the CAIR authorized account representative demonstrating to the satisfaction of the administrator good cause as to why the account should not be closed.

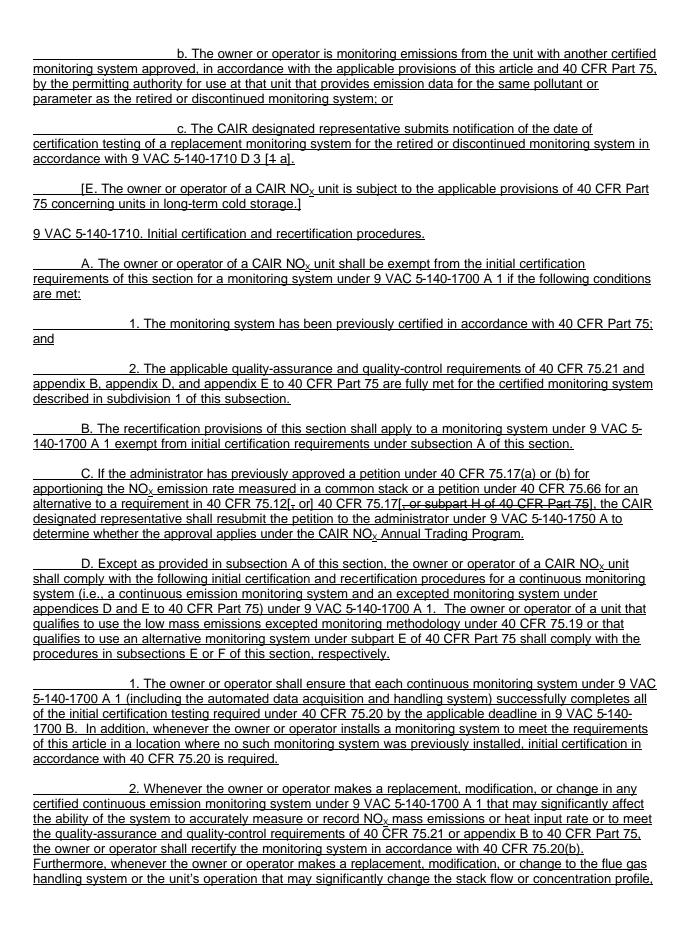
Article 17. CAIR NO_x Allowance Transfers.

<u>CAIR NO_x Allowance Transfers.</u>
9 VAC 5-140-1600. Submission of CAIR NO _x allowance transfers.
A CAIR authorized account representative seeking recordation of a CAIR NO_X allowance transfer shall submit the transfer to the administrator. To be considered correctly submitted, the CAIR NO_X allowance transfer shall include the following elements, in a format specified by the administrator:
A. The account numbers for both the transferor and transferee accounts;
B. The serial number of each CAIR $NO_{\underline{x}}$ allowance that is in the transferor account and is to be transferred; and
C. The name and signature of the CAIR authorized account representative of the transferor account and the date signed.
9 VAC 5-140-1610. EPA recordation.
A. Within five business days (except as provided in subsection B of this section) of receiving a CAIR $NO_{\underline{x}}$ allowance transfer, the administrator will record a CAIR $NO_{\underline{x}}$ allowance transfer by moving each CAIR $NO_{\underline{x}}$ allowance from the transferor account to the transferee account as specified by the request, provided that:
1. The transfer is correctly submitted under 9 VAC 5-140-1600; and
2. The transferor account includes each CAIR NO _x allowance identified by serial number in the transfer.
B. A CAIR NO _x allowance transfer that is submitted for recordation after the allowance transfer deadline for a control period and that includes any CAIR NO _x allowances allocated for any control period before such allowance transfer deadline will not be recorded until after the administrator completes the deductions under 9 VAC 5-140-1540 for the control period immediately before such allowance transfer deadline.
C. Where a CAIR $NO_{\underline{x}}$ allowance transfer submitted for recordation fails to meet the requirements of subsection A of this section, the administrator will not record such transfer.
9 VAC 5-140-1620. Notification.
A. Within five business days of recordation of a CAIR NO _x allowance transfer under 9 VAC 5-140-

A. Within five business days of recordation of a CAIR NO_x allowance transfer under 9 VAC 5-140-1610, the administrator will notify the CAIR authorized account representatives of both the transferor and transferee accounts.

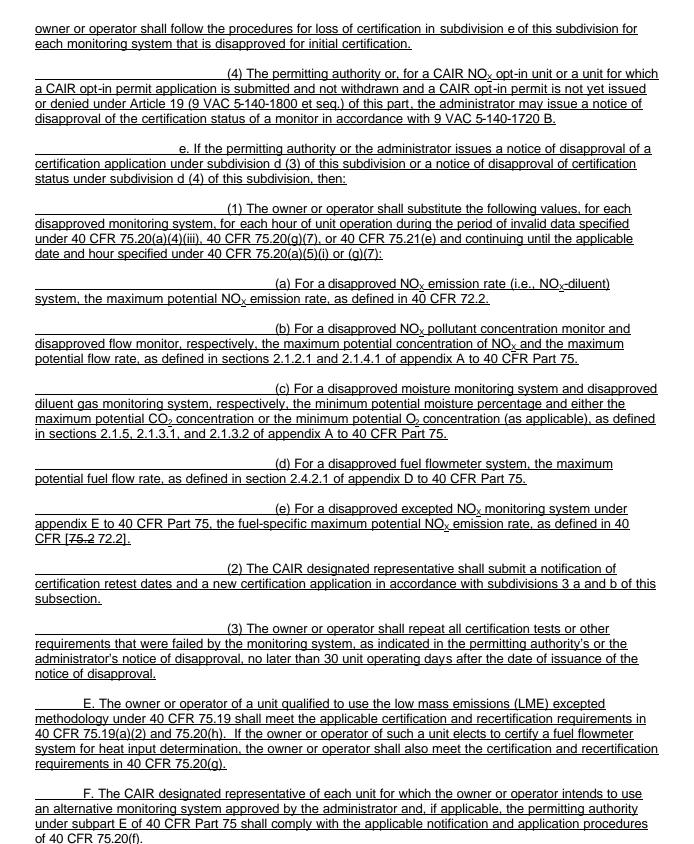






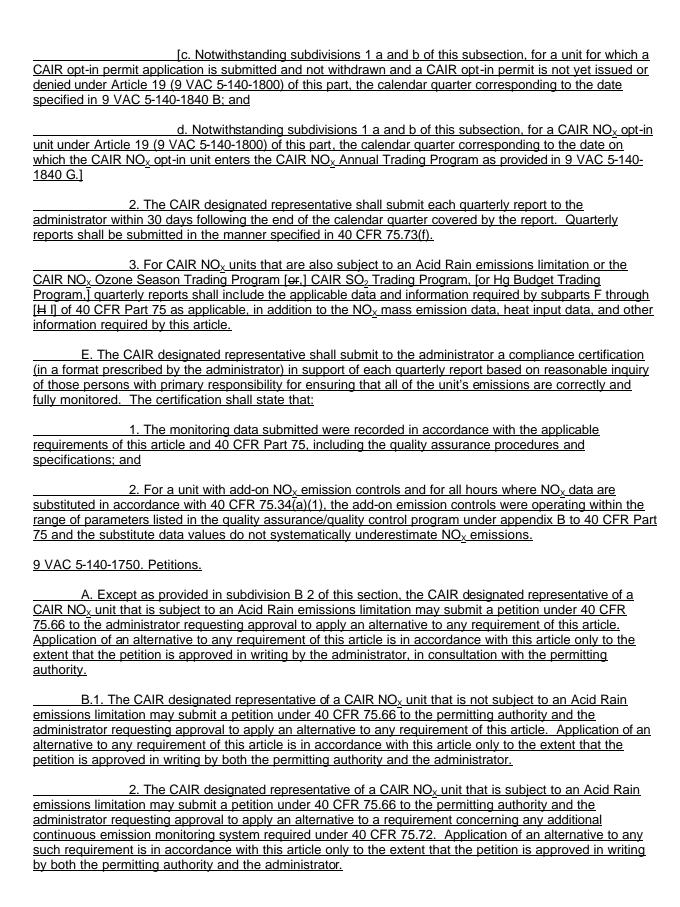
potentially affected by the change, in accordance with 40 CFR 75.20(b). Examples of changes to a continuous emission monitoring system that require recertification include[:] replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site. Any fuel flowmeter system, and any excepted NOx monitoring system under appendix E to 40 CFR Part 75, under 9 VAC 5-140-1700 A 1 are subject to the recertification requirements in 40 CFR 75.20(g)(6). 3. Subdivisions a through d of this subdivision apply to both initial certification and recertification of a continuous monitoring system under 9 VAC 5-140-1700 A 1. For recertifications, replace the words "certification" and "initial certification" with the word "recertification," replace the word "certified" with the word "recertified," and follow the procedures in 40 CFR 75.20(b)(5) and (g)(7) in lieu of the procedures in subdivision e of this subdivision. a. The CAIR designated representative shall submit to the permitting authority, the EPA Region III Office, and the administrator written notice of the dates of certification testing, in accordance with 9 VAC 5-140-1730. b. The CAIR designated representative shall submit to the permitting authority a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63. c. The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR 75.20(a)(3). A provisionally certified monitoring system may be used under the CAIR NO_x Annual Trading Program for a period not to exceed 120 days after receipt by the permitting authority of the complete certification application for the monitoring system under subdivision b of this subdivision. Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR Part 75, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the permitting authority does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of the date of receipt of the complete certification application by the permitting authority. d. The permitting authority will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under subdivision b of this subdivision. In the event the permitting authority does not issue such a notice within such 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR Part 75 and is included in the certification application will be deemed certified for use under the CAIR NO_x Annual Trading Program. (1) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR Part 75, then the permitting authority will issue a written notice of approval of the certification application within 120 days of receipt. (2) If the certification application is not complete, then the permitting authority will issue a written notice of incompleteness that sets a reasonable date by which the CAIR designated representative shall submit the additional information required to complete the certification application. If the CAIR designated representative does not comply with the notice of incompleteness by the specified date, then the permitting authority may issue a notice of disapproval under subdivision d (3) of this subdivision. The 120-day review period shall not begin before receipt of a complete certification application. (3) If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR Part 75 or if the certification application is incomplete and the requirement for disapproval under subdivision d (2) of this subdivision is met, then the permitting authority will issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the permitting authority and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification (as defined under 40 CFR 75.20(a)(3)). The

the owner or operator shall recertify each continuous emission monitoring system whose accuracy is



9 VAC 5-140-1720. Out of control periods.

A. Whenever any monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements of 40 CFR Part 75, data shall be substituted using the applicable missing data procedures in subpart D or subpart H of, or appendix D or appendix E to, 40 CFR Part 75.
B. Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under 9 VAC 5-140-1710 or the applicable provisions of 40 CFR Part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the permitting authority or, for a CAIR NO _x opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 19 (9 VAC 5-140-1800 et seq.) of this part, the administrator will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subsection, an audit shall be either a field audit or an audit of any information submitted to the permitting authority or the administrator. By issuing the notice of disapproval, the permitting authority or the administrator revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification procedures in 9 VAC 5-140-1710 for each disapproved monitoring system.
9 VAC 5-140-1730. Notifications.
The CAIR designated representative for a CAIR NO _x unit shall submit written notice to the permitting authority and the administrator in accordance with 40 CFR 75.61[, except that if the unit is not subject to an Acid Rain emissions limitation, the notification is only required to be sent to the permitting authority].
9 VAC 5-140-1740. Recordkeeping and reporting.
A. The CAIR designated representative shall comply with all recordkeeping and reporting requirements in this section, the applicable recordkeeping and reporting requirements under 40 CFR 75.73, and the requirements of 9 VAC 5-140-1100 E 1.
B. The owner or operator of a CAIR NO _x unit shall comply with requirements of 40 CFR 75.73(c) and (e) and, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Article 19 (9 VAC 5-140-1800 et seq.) of this part, 9 VAC 5-140-1830 and 9 VAC 5-140-1840 A.
C. The CAIR designated representative shall submit an application to the permitting authority within 45 days after completing all initial certification or recertification tests required under 9 VAC 5-140-1710, including the information required under 40 CFR 75.63.
D. The CAIR designated representative shall submit quarterly reports, as follows:
1. The CAIR designated representative shall report the NO _x mass emissions data and heat input data for the CAIR NO _x unit, in an electronic quarterly report in a format prescribed by the administrator.
for each calendar quarter beginning with:
a. For a unit that commences commercial operation before July 1, 2007, the calendar quarter covering January 1, 2008 through March 31, 2008; [er]
b. For a unit that commences commercial operation on or after July 1, 2007, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under 9 VAC 5-140-1700 B, unless that quarter is the third or fourth quarter of 2007, in which case reporting shall commence in the quarter covering January 1, 2008 through March 31, 2008[-;]

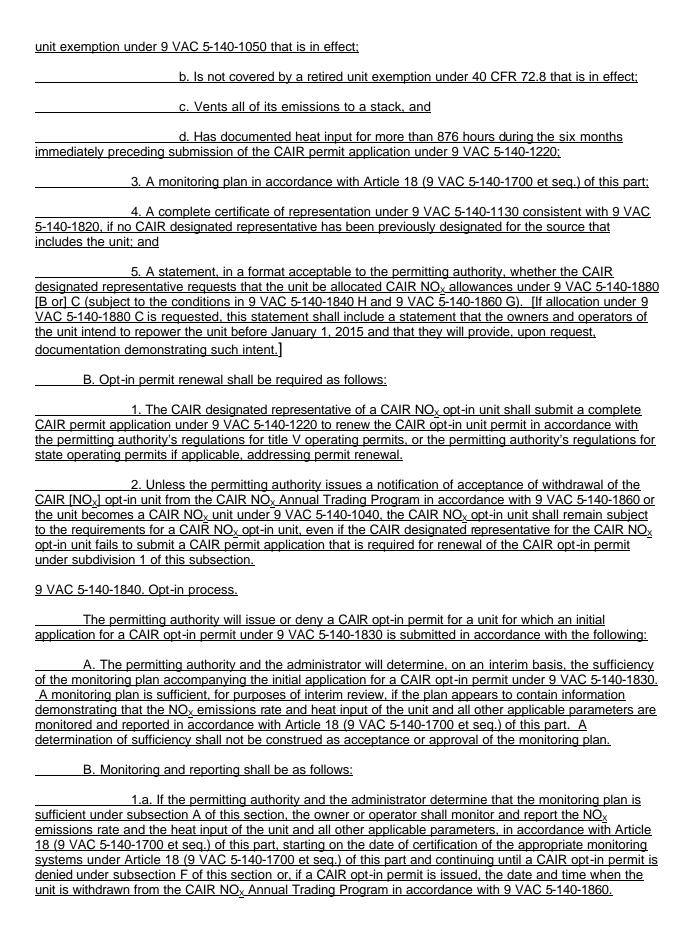


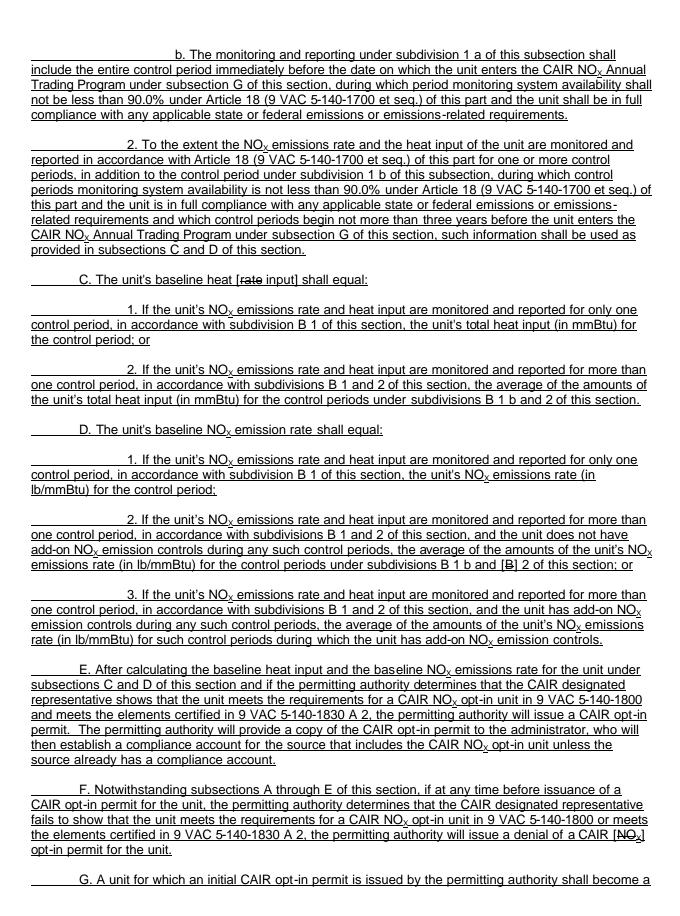
9 VAC 5-140-1760. Additional requirements to provide heat input data.

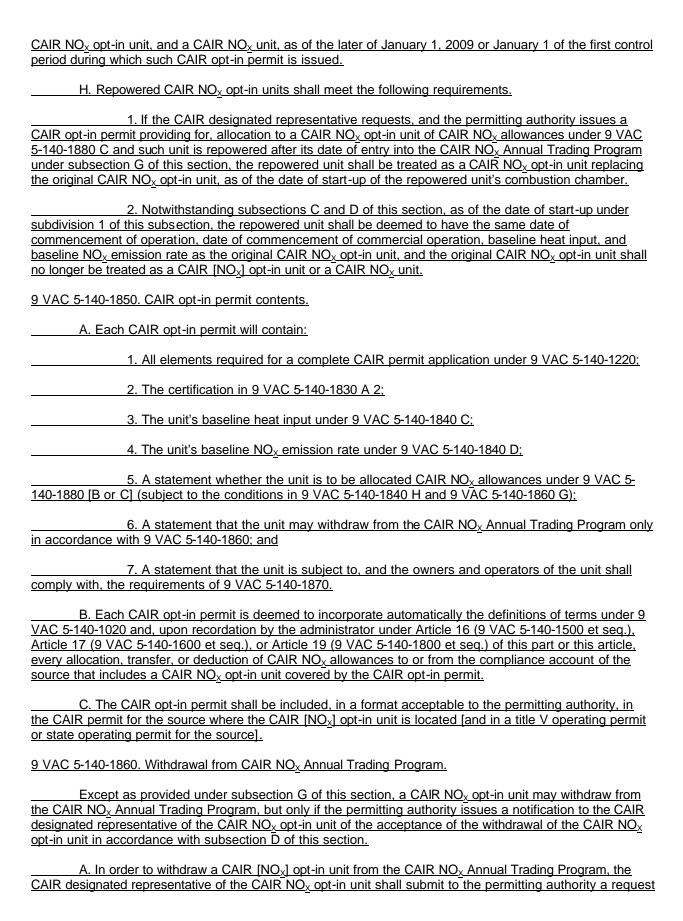
The owner or operator of a CAIR NO_x unit that monitors and reports NO_x mass emissions using a NO_x concentration system and a flow system shall also monitor and report heat input rate at the unit level using the procedures set forth in 40 CFR Part 75.]

Article 19. CAIR NO_x Opt-in Units.

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9 VAC 5-140-1800. Applicability.
A CAIR NO _x opt-in unit shall be a unit that:
A. Is located in the state;
B. Is not a CAIR NO _x unit under 9 VAC 5-140-1040 and is not covered by a retired unit exemption under 9 VAC 5-140-1050 that is in effect;
C. Is not covered by a retired unit exemption under 40 CFR 72.8 that is in effect;
D. Has or is required or qualified to have a title V operating permit or state operating permit; and
E. Vents all of its emissions to a stack and can meet the monitoring, recordkeeping, and reporting requirements of Article 18 (9 VAC 5-140-1700 et seq.) of this part.
9 VAC 5-140-1810. General.
A. Except as otherwise provided in 9 VAC 5-140-1010 through 9 VAC 5-140-1040, 9 VAC 5-140-1060 through 9 VAC 5-140-1080, and Article 12 (9 VAC 5-140-1100 et seq.), Article 13 (9 VAC 5-140-1400 et seq.), and Article 16 (9 VAC 5-140-1500 et seq.) through Article 18 (9 VAC 5-140-1700 et seq.) of this part, a CAIR NO _X opt-in unit shall be treated as a CAIR NO _X unit for purposes of applying such sections and articles of this part.
B. Solely for purposes of applying, as provided in this article, the requirements of Article 18 (9 VAC 5-140-1700 et seq.) of this part to a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this article, such unit shall be treated as a CAIR NO _x unit before issuance of a CAIR opt-in permit for such unit.
9 VAC 5-140-1820. CAIR designated representative.
Any CAIR NO $_{\underline{x}}$ opt-in unit, and any unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this article, located at the same source as one or more CAIR NO $_{\underline{x}}$ units shall have the same CAIR designated representative and alternate CAIR designated representative as such CAIR NO $_{\underline{x}}$ units.
9 VAC 5-140-1830. Applying for CAIR opt-in permit.
A. The CAIR designated representative of a unit meeting the requirements for a CAIR NO _x opt-in uni in 9 VAC 5-140-1800 may apply for an initial CAIR opt-in permit at any time, except as provided under 9 VAC 5-140-1860 F and G, and, in order to apply, shall submit the following:
1. A complete CAIR permit application under 9 VAC 5-140-1220;
2. A certification, in a format acceptable to the permitting authority, that the unit:
a. Is not a CAIR NO _x unit under 9 VAC 5-140-1040 and is not covered by a retired







to withdraw effective as of midnight of December 31 of a specified calendar year, which date must be at least four years after December 31 of the year of entry into the CAIR NO_x Annual Trading Program under 9 VAC 5-140-1840 G. The request shall be submitted no later than 90 days before the requested effective date of withdrawal. B. Before a CAIR NO_x opt-in unit covered by a request under subsection A of this section may withdraw from the CAIR NO_x Annual Trading Program and the CAIR opt-in permit may be terminated under subsection E of this section, the following conditions must be met: 1. For the control period ending on the date on which the withdrawal is to be effective, the source that includes the CAIR NO_x opt-in unit must meet the requirement to hold CAIR NO_x allowances under 9 VAC 5-140-1060 C and must not have any excess emissions. 2. After the requirement for withdrawal under subdivision 1 of this subsection is met, the administrator will deduct from the compliance account of the source that includes the CAIR NO_x opt-in unit CAIR NO_x allowances equal in amount to and allocated for the same or a prior control period as any CAIR NO_x allowances allocated to the CAIR NO_x opt-in unit under 9 VAC 5-140-1880 for any control period for which the withdrawal is to be effective. If there are no remaining CAIR NO_x units at the source, the administrator will close the compliance account, and the owners and operators of the CAIR NO_x opt-in unit may submit a CAIR NO_x allowance transfer for any remaining CAIR NO_x allowances to another CAIR NO_x Allowance Tracking System in accordance with Article 17 (9 VAC 5-140-1600 et seq.) of this part. C. Notification shall be performed as follows: 1. After the requirements for withdrawal under subsections A and B of this section are met (including deduction of the full amount of CAIR NO_x allowances required), the permitting authority will issue a notification to the CAIR designated representative of the CAIR NO_x opt-in unit of the acceptance of the withdrawal of the CAIR NO_x opt-in unit as of midnight on December 31 of the calendar year for which the withdrawal was requested. 2. If the requirements for withdrawal under subsections A and B of this section are not met, the permitting authority will issue a notification to the CAIR designated representative of the CAIR NO_x opt-in unit that the CAIR NO_x opt-in unit's request to withdraw is denied. Such CAIR NO_x opt-in unit shall continue to be a CAIR NO_x opt-in unit. D. After the permitting authority issues a notification under subdivision C 1 of this section that the requirements for withdrawal have been met, the permitting authority will revise the CAIR permit covering the CAIR NO_x opt-in unit to terminate the CAIR opt-in permit for such unit as of the effective date specified under subdivision C 1 of this section. The unit shall continue to be a CAIR NOx opt-in unit until the effective date of the termination and shall comply with all requirements under the CAIR NO_x Annual Trading Program concerning any control periods for which the unit is a CAIR NO_x opt-in unit, even if such requirements arise or must be complied with after the withdrawal takes effect. E. If the permitting authority denies the CAIR NO_x opt-in unit's request to withdraw, the CAIR designated representative may submit another request to withdraw in accordance with subsections A and B of this section. F. Once a CAIR NO_x opt-in unit withdraws from the CAIR NO_x Annual Trading Program and its CAIR opt-in permit is terminated under this section, the CAIR designated representative may not submit another application for a CAIR opt-in permit under 9 VAC 5-140-1830 for such CAIR NO_x opt-in unit before the date that is four years after the date on which the withdrawal became effective. Such new application for a CAIR opt-in permit will be treated as an initial application for a CAIR opt-in permit under 9 VAC 5-140-1840. G. Notwithstanding subsections A through F of this section, a CAIR NO_x opt-in unit shall not be

eligible to withdraw from the CAIR NO_x Annual Trading Program if the CAIR designated representative of the CAIR NO_x opt-in unit requests, and the permitting authority issues a CAIR NO_x opt-in permit providing for,

allocation to the CAIR NO_x opt-in unit of CAIR NO_x allowances under 9 VAC 5-140-1880 C.

